

## **The complaint**

Miss J complains that NewDay Ltd trading as Pulse ('Pulse') misled her by terminating her credit card account during an active period of breathing space, when they said they wouldn't.

To put things right Miss J would like Pulse to reinstate her credit card account.

## **What happened**

In March 2023 Miss J contacted Pulse as she had not been able to pay two minimum payments due on her credit card account. Miss J arranged a payment holiday, which meant no payments were due on her account until 14 June 2023.

On 6 June 2023 Pulse agreed to extend Miss J's payment holiday to 14 August 2023. And on 5 August 2023 Pulse agreed to extend Miss J's payment holiday again, to 14 September 2023.

Pulse sent Miss J two default notices, in March and June 2023. Miss J did not comply with the payment requirements of either default notice, but she was on a payment holiday at the time.

On 14 September 2023 Miss J's payment holiday ended and she was required to make a payment – and she contacted Pulse to ask for two more weeks to do this. Pulse told Miss J that breathing space had been applied to her account so she could delay payment until 14 October 2023 - and reassured Miss J that her account would not be terminated.

However, Pulse terminated Miss J's account the next day, on 15 September 2023. They sent her a termination letter, saying the full balance of the card was due and seeking payment proposals.

Miss J complained to Pulse about her account termination a few days later and asked for her account be reinstated. Miss J also paid £403.01, which brought her arrears up to date before the breathing space deadline.

On 30 September 2023 Pulse responded to Miss J's complaint and offered compensation of £50 for giving her the wrong information about her account termination. Pulse did not agree to reinstate Miss J's credit card account, and maintained it was terminated correctly as they said she had not made the required payments on time.

Miss J was unhappy with Pulse's response and contacted our service. Our investigator concluded that Pulse had not done anything wrong when terminating the account, and although incorrect information had been given to Miss J this had been adequately compensated by Pulse.

Miss J did not accept this and referred to her rights as a consumer. She asked for an ombudsman to review her complaint.

## **My provisional findings**

Earlier this month I issued my provisional findings in relation to this complaint, as follows:

*"I have looked at all the evidence and information made available to me to decide what is fair and reasonable in the circumstances of this complaint.*

*In doing so I am minded to uphold Miss J's complaint in part, and I intend to say that Pulse should pay an increased sum of compensation to Miss J for the distress and inconvenience this matter has caused her – but I'm not asking Pulse to do more than this.*

*Miss J is right that there are rules and regulations in place to protect consumers. The Financial Conduct Authority – the regulator – maintains a handbook of rules and guidance ('FCA Handbook') and this sets out what it expects firms (including Pulse) to comply with. Included in the FCA Handbook is a set of Principles. Principle 7 sets out that "a firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading."*

*The FCA Handbook contains a Consumer Credit Sourcebook ('CONC') which sets out rules and guidance about how customers are treated when they are in financial difficulty. I have considered the provisions at CONC 7.3 – which include that firms should treat their customers fairly, give them reasonable time and opportunity to repay their debts, and take proportionate action against customers in arrears.*

*And from 31 July 2023, the FCA Handbook introduced a new set of rules and principles collectively referred to as the 'Consumer Duty' which I've also taken into account.*

*Having looked at the submissions of both parties and the documents available to me, I am minded to say that Pulse acted fairly and in accordance with CONC 7.3 of the FCA Handbook when they agreed to give Miss J a series of payment holidays. I say this because I can see from Pulse's records that they gave Miss J a reasonable time to pay her credit card and were flexible in their approach when Miss J's circumstances changed.*

*And I think Pulse acted in the spirit of Principle 7 when communicating with Miss J by letter. Pulse's letter of 16 March 2023 was reasonably clear in the way Pulse set out what was expected of Miss J during her payment holidays. Miss J was also sent letters to warn her that her payment holidays were coming to an end, and to remind her of what she needed to pay, and when. Given Miss J's engagement with Pulse, there's no suggestion she didn't get these letters.*

*Notably, Pulse's letter of 4 September 2023 set out:*

*"We're writing to let you know your payment holiday will end on 14 September 2023...  
...You will need to start making at least your minimum monthly payment again by the date on your next statement.*

*Any payments that were already due before your payment holiday began will become immediately payable on 14 September 2023."*

*However, I am inclined to say that Pulse didn't communicate with Miss J in a way which was clear, fair and not misleading during an online chat with her on 14 September 2023. This is because Pulse assured Miss J multiple times that she had time to pay – but her account was terminated the next day.*

*I have seen a record of the online chat, in which Miss J requested a further two weeks to pay. Pulse said:*

*"Yes, you can make the payment by the end of this month. You have active breathing space until October 14, 2023.*

*Do not worry; your account will not be terminated during the breathing space period."*

*Pulse also said:*

*"Your account is currently 213 days in arrears.*

*As your account falls into 60+ days of arrears, your agreement with us might be terminated, and your account will only be open for repayments.*

*At the same time, your account will be at risk of being placed with a debt collection agency. However, as you were on active payment holiday until now and now you have applied for 30 days of breathing space, your account may not be terminated."*

*Pulse also used the online chat to set out to Miss J how she could manage her account in future, to pay down her balance more effectively once her breathing space ended.*

*I can see from Pulse's computer records that their chat agent recorded that breathing space was applied to Miss J's account, and that Pulse agreed to give Miss J until mid-October to pay.*

*So in those circumstances, was it fair and reasonable for Pulse to terminate Miss J's account on 15 September 2023?*

*Pulse confirmed to this service that a payment holiday suspends the amount due under a default notice until that payment holiday ends - so Miss J's account could only be terminated after her payment holidays ended.*

*Pulse also confirmed that a period of breathing space stops collections activity on an account while either payment is made, or a payment arrangement is agreed.*

*I think it important to recognise that the term 'breathing space' is often used to refer to a government initiative - the 'Debt Respite Scheme (Breathing Space)' - which enables consumers to get advice and assistance from a debt advisor to formally pause action on their credit accounts and enable them to make payment arrangements.*

*So there is a question here about what was meant by the words 'breathing space', in relation to Miss J's account. As I haven't been able to see the involvement of a debt advisor, and it appears Miss J simply asked for time to pay in the online chat with Pulse, I am inclined to say that Pulse's chat advisor said 'breathing space' to describe a period of time to pay rather than to identify the government's Debt Respite Scheme.*

*In the course of investigating this complaint I asked Pulse to confirm whether their agent's reference to 'breathing space' in their online chat and computer records was referring to the government's scheme – which would impose restrictions on what they could do with Miss J's account – or if it was simply a turn of phrase.*

*Pulse were unable to confirm this and said that breathing space hadn't been applied to Miss J's account. But this is contrary to what it says in Pulse's records for Miss J's account and what was said to her in the online chat. I think it is also inconsistent with Pulse advising Miss J of how she could better manage her account once her breathing space ended. I'm minded to say I'm satisfied that whatever Pulse intended, Miss J had a reasonable*

*expectation from Pulse's communications here that she had been given time to pay and her account would stay open for her to do so.*

*From the information provided to me, I can't see that Pulse ever explained to Miss J what 'breathing space' meant, and if it was any different to a payment holiday. And I can't see any evidence that Pulse explained to Miss J what she should do about complying with the default notices sent to her while she was on a payment holiday or in a period of breathing space.*

*So given what Miss J was told in the online chat - and considering her account had not been terminated previously when she had been given time to pay - I'm minded to conclude it was reasonable that Miss J understood the words 'breathing space' to mean she didn't need to make a payment or comply with the default notices until 14 October 2023.*

*Whilst I haven't been able to see a statement showing this, Miss J says she brought her account up to date by paying £403.01 on 28 September 2023. This appears to be accepted by Pulse as they acknowledge a payment of this amount in their final response letter to Miss J dated 30 September 2023.*

*Miss J's ability to make this payment persuades me that Miss J would likely have made the required payment of £403.01 before the end of the breathing space deadline Pulse gave her of 14 October 2023, had her account remained open. And had that happened, Miss J would've complied with her agreement with Pulse and would've satisfied June 2023's default notice.*

*In those circumstances, I am minded to say it was likely that Pulse would not have terminated her account when they did, and this is not a case where Miss J would've failed to pay in any event.*

*Taking into account the typed record of active breathing space on Miss J's account, Pulse's agreement to delay payment until mid-October 2023, and Miss J's payment in September 2023, I intend to decide that it was not fair or reasonable for Pulse to terminate Miss J's account on 15 September 2023 on the basis that she hadn't paid the required payments.*

*I have next considered Miss J's request that her account be reinstated.*

*Given the rules and regulations for lenders, I don't think this would be possible without Miss J re-applying for a credit card account with Pulse because her agreement was formally ended under the provisions of the Consumer Credit Act 1974, and the full debt was called in.*

*Even if it were possible to reinstate her account, I think this would open Miss J up to potential problems given the status of her account when it was terminated. This is because Miss J had been over her credit limit, or at the very top of her limit, for some time, which isn't a sustainable way of maintaining a credit card account.*

*During the online chat Pulse said they considered Miss J to be in persistent debt. In these circumstances Pulse would've been required under their regulatory obligations to take steps to help Miss J with her financial difficulties. I think it is likely Pulse would've suspended use of the card or closed Miss J's account while Miss J paid off her debt, as this would help her to avoid financial harm.*

*I have also considered that throughout 2023 Miss J was not getting full use of her credit card. There was no available credit for Miss J to use without further exceeding her credit limit. And Miss J hadn't been able to use the card at all during her payment holidays - so hadn't used the card for six months leading up to when the account was terminated.*

*So whilst it was upsetting for a line of credit to be closed, particularly when she was taking steps to keep it open, Miss J had not suddenly been exposed to a situation where she couldn't use her credit card for essential purchases.*

*Taking those factors into account I am minded to say that I can't reasonably conclude that the termination of Miss J's credit card account in September 2023 has caused her any significant difficulties or worsened her financial circumstances. I am also minded to say that the termination of Miss J's account was something, in the circumstances, that may still have happened.*

*However, I accept the way Miss J's account was terminated caused her frustration and disappointment - particularly as she'd spent time arranging further time to pay, which ultimately wasn't given to her.*

*In response to Miss J's complaint Pulse have credited Miss J's account with the sum of £50 to put things right, although they gave Miss J the option of having this paid directly to her.*

*Looking at what has happened here I'm minded to decide that Pulse should pay £150 in total to Miss J, for the distress and inconvenience this matter has caused her – so that's a further £100.*

*I'm of the view that this sum appropriately reflects that Pulse's communication raised Miss J's expectation of keeping her account open only for her to discover it had been terminated – despite her payment of £403.01 on 29 September 2023 – and consequently she had to spend time sorting this matter out.*

*Finally, I have considered if there's anything to put right in relation to Miss J's credit file. Pulse confirmed that they haven't reported to the Credit Reference Agencies that Miss J's account was defaulted, which I think is fair in these circumstances."*

#### Responses to my provisional decision

In my provisional decision, I asked both Pulse and Miss J to respond within a set timeframe if they had any further comments or evidence that they would like me to consider.

Pulse accepted my provisional decision.

Miss J said she didn't accept my proposal that Pulse pay her a further £100 (so £150 in total) because she didn't consider this properly reflected Pulse's mistakes. Miss J said she had declined the £50 Pulse offered, but they'd still paid it into her account.

Miss J said she didn't ring Pulse to say she couldn't make the payment, rather she asked if delaying the payment would affect her account. Miss J reiterated the number of times she felt she was given incorrect or misleading information by Pulse and said that Pulse didn't keep her up to date with what was happening on her account.

#### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I acknowledge that Miss J doesn't think my proposal to put things right goes far enough.

I think it may be helpful to say that it is not my role to fine or punish a business – my remit is to resolve disputes depending on what is fair and reasonable when looking at the

circumstances of each case. So where I decide that something's gone wrong, I can make a proposal for the business to put things right as far as it is practicable to do so.

It is difficult to put a price on how much someone has been upset and inconvenienced when things go wrong. Our service has guidelines to help determine an appropriate level of compensation, and I've considered these. I'm satisfied that my proposal that Pulse pay £150 in total to Miss J is a fair and reasonable outcome in the circumstances of this complaint.

Taking all the above into account, my decision is to uphold Miss J's complaint in part. For the reasons above Pulse should make a further payment of £100 to Miss J for the distress and inconvenience caused to her.

### **Putting things right**

NewDay Ltd trading as Pulse should do the following to put things right:

- Pay a further £100 to Miss J for her distress and inconvenience.

### **My final decision**

For the reasons I have outlined, I uphold Miss J's complaint in part and require NewDay Ltd trading as Pulse to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 19 November 2024.

Clare Burgess-Cade  
**Ombudsman**