

The complaint

X complains that NewDay Ltd were unreasonable to default and terminate his agreement when they knew he was medically incapacitated. He says they failed to follow the correct complaints procedure.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

In September 2024 NewDay wrote to X terminating his credit card agreement with them because he was in significant arrears and hadn't responded to their letters reminding him of that.

X says they were unreasonable to do that and to report adverse information to his credit file because he'd told them he was in hospital and incapacitated.

X referred his complaint to this service and NewDay made an offer to settle the complaint. They said they would refund interest and fees from the point X had told them of his health problems, in June 2024. They also offered to pay X £150 in compensation as they accepted that they should have recalled his account from their debt collection agency earlier than they did. Our investigator thought that was a fair offer, but X didn't.

X said they were wrong to default his account during a period of documented medical incapacity and in violation of several Financial Conduct Authority rules. He said they'd discriminated against him as they had made no attempts to adjust the way they managed his account given his condition and he explained that adverse entries on his credit file may jeopardise his job. He asked for a decision by an ombudsman.

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 know it will disappoint X, but I'm not upholding this complaint and for broadly the same reasons as our investigator had suggested. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point, it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

X has suggested that NewDay were in breach of the Equalities Act 2010 by not offering reasonable adjustments for his condition. Only a court can decide whether that was the

case, but I can decide whether NewDay were fair and reasonable in the actions they took. I agree with X that it would be reasonable for a lender to show forbearance when they're aware a consumer is medically incapacitated. The Consumer Credit Sourcebook (CONC) sets out some of the rules and guidance that the Financial Conduct Authority (FCA) expects providers of credit, such as NewDay, to follow. Firms are expected to show forbearance and due consideration to borrowers in or approaching financial difficulty (CONC 7.3.4R) and I think medical incapacity would be likely to place someone, like X, in financial difficulty and would therefore require sensitive treatment.

I've considered how much NewDay knew about X's condition and his incapacity. He told them on a call that he was in hospital in May 2024 and on 6 June 2024 he explained he'd been hospitalised for a month with brain swelling, memory loss and severe pain that made it difficult for him to manage his finances. NewDay have accepted that at that point they should have put X's account on hold and stopped charging interest and applying fees. They've now offered to put that right by refunding the fees and interest charged and I think that's fair as it puts X back in the position he would have been in had they taken the appropriate action.

However, I don't think NewDay need to remove any adverse reports they've made to X's credit file. They were able to talk at length with X in June 2024 when they agreed a payment plan that expired in August 2024. Their system records don't show evidence that X or any representative of X had contacted them to explain his condition had worsened, so I don't think that after the payment plan ended and X remained uncommunicative, despite calls and letters, they were wrong to subsequently default the account, terminate it and report that adverse information to X's credit file.

The Information Commissioners Office says that an account should be defaulted when it is between three and six months in arrears and as X's account had been, I think a default was warranted.

NewDay also offered X £150 in compensation as they accepted they should have put a hold on the account and that there were delays in them recalling the debt from their collection agents. I think that was reasonable in the circumstances.

X has also complained that NewDay didn't follow the correct complaints procedure. While this service can't consider stand-alone complaints about complaint handling I can consider one that relates to the continuation of the financial service in question. X says that NewDay's complaint process was obscure and inaccessible but even if I was to make that finding, and I don't, I don't think it's prevented X making his case and I don't think it would have made any difference to the redress I'm ordering here.

My final decision

For the reasons I've given above, I uphold this complaint in part and tell NewDay Ltd to:

- Pay X £150 in compensation to acknowledge the delays caused and incorrect actions their associates took.
- Refund the fees totalling £24 and interest of £212.77 that has been applied since 6 June 2024.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 26 August 2025.

Phillip McMahon
Ombudsman

