

## **The complaint**

Mr H has complained about the way NewDay Ltd “NewDay” defaulted his credit card account.

## **What happened**

All parties are familiar with the facts of this case so I’ll only briefly set them out here. Mr H’s account was terminated in June 2021, and a default registered in November 2021. But Mr H says he had been making nominal payments to this account since March 2019, and a default should have been registered in August 2019 which is when his account was in arrears by six months. This would have resulted in the default falling off his credit file sooner than it will now. He says this is causing him difficulties applying for a mortgage. He feels NewDay should either remove the default or backdate it, so it will be removed sooner.

NewDay didn’t agree with Mr H’s complaint. It said it had agreed repayment arrangements to help him repay the debt without registering a default and had previously re-aged the account to clear arrears when he maintained regular payments. It also said that, when it did default the account, it did so after correctly issuing notice of default (giving him a chance to avoid it by clearing the arrears), and after his account had been in arrears for 180 days – which is within the Information Commissioner Office (ICO) guidelines. As it hadn’t made an error, it didn’t agree to either remove or backdate the default.

Unhappy, Mr H referred his complaint to our service reiterating his earlier points. Mr H’s complaint was considered by one of our investigators. They didn’t recommend the complaint be upheld explaining that while Mr H had been making small payments under an agreed repayment plans, many of his plans were in line with the payments NewDay were willing to accept, and as he maintained them, his accounts were re-aged to help him avoid a default. Once his account was in arrears for 180 days – NewDay correctly defaulted his account which is in line with the ICO’s guidelines.

Mr H disagreed explaining that his complaint against a different bank had been upheld in similar circumstances so he wanted an ombudsman to review the complaint.

Our investigator explained that each case is decided on their individual merits and their view remained unchanged. As the complaint couldn’t be resolved, the complaint has been passed to me to make a decision.

## **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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators’ rules, guidance and standards, codes of practice and (where appropriate) what I consider having been good industry practice at the relevant time.

I'm sorry to hear about the impact the situation is having on Mr H. Having considered all the circumstances, I've reached the same overall conclusions as the investigator for broadly the same reasons. I've read and considered the evidence submitted by both parties, but I'll focus my comments on what I think is relevant. If I don't comment on a specific point, it isn't because I haven't considered it, but because I don't think I need to comment in order to reach what I think is the right outcome. This is not intended as a discourtesy but reflects the quick and informal nature of this service in resolving disputes.

As Mr H says, he has been making small payments to his credit card account for a considerable amount of time, so I can see why he feels a default should have been registered sooner. But based on the specific facts of this case, I don't think NewDay has acted incorrectly or unfairly and I'll explain why.

I think it's important to bear in mind that NewDay's policy of waiting until an account has been in arrears for 180 days before registering a default is in line with the ICO guidelines. And it's also able to re-age an account (to remove arrears), if consumers maintain an agreed repayment arrangement for an acceptable period of time. This is all in line with the current guidelines.

I think it's also important to note that Mr H's debt with NewDay is relatively small – in 2019 when he first offered a repayment arrangement (through a third party debt advice agency) his balance was only approximately £45 above his credit limit of £300. The repayment offers he made were either slightly above, slightly below or in line with the minimum contractual payments Mr H was required to make to meet the terms of his credit agreement. Businesses like NewDay are expected to show forbearance to help consumers repay their debt. A default can have lasting consequences for consumers so generally I don't think it's unfair for a business to try to help consumers avoid this if possible.

NewDay says if consumers offer repayment proposals that are more than 1% of the outstanding balance, and maintain them, it will re-age the account and remove any arrears. I can see in 2019 a repayment arrangement was maintained, when no interest was applied and payments of £6.40 were maintained. And by March 2020, the account was brought back within the credit limit of the account.

Subsequently a few payments were missed before NewDay gave Mr H a payment holiday until August 2020. From September 2020 until December 2020, Mr H made regular payments in amounts that were either above or 1p below his contractual minimum.

Between January 2021 and November 2021 Mr H missed several payments although made the minimum payments due in March and September 2021 and made nominal payments in August 2021 and October 2021. NewDay issued a notice of default in May 2021 asking Mr H to clear the accrued arrears to avoid a default. However, although some payments were made, Mr H failed to do this, so it terminated his credit agreement. After his account was in arrears for 180 days, in October 2021, it notified Mr H it was registering a default which was done in November 2021.

A default is generally registered when a consumers relationship with a financial business has broken down and it becomes clear that a consumer will be unable to recover within a reasonable timeframe and maintain the credit agreement. It doesn't look like this happened until 2021. Up until that point, it looks to me like NewDay worked with Mr H and his debt advice agency to enable him to clear his debt without defaulting or terminating his account due to his outstanding balance being low and his proposals being in line with its acceptable limits. This is not something that I think is unfair and incorrect. Had Mr H been able to maintain these payments which he managed to do for a considerable amount of time, he

would have been able to clear the debt completely without a default – which would have been beneficial for him.

I appreciate his situation seems to have deteriorated in 2021, and NewDay at this time reviewed the position, and recorded a default after his account had been in arrears for 180 days. This appears to be in line with industry guidelines so I don't think I could conclude that NewDay has acted unfairly in relation to this account.

I appreciate with the benefit of hindsight, as Mr H was eventually unable to avoid the default, then it would have been better for NewDay to have recorded it earlier which means it would have fallen off his credit file sooner. But before 2021, it looks like Mr H was working hard to clear his debt and maintained repayment plans – so I think it was reasonable for NewDay to give him a chance to do this and help him avoid the default. It appears to have suspended interest, agreed repayment plans, gave him a payment holiday and re-aged the account when he maintained repayment plans. It also kept him updated about the status of his account by sending him regular statements and letters informing of missed payments whenever he did so. Overall, I don't think I could reasonably conclude that NewDay has acted unfairly.

I appreciate Mr H has acted proactively and worked hard to get a hold of his financial situation but I also think NewDay has acted positively and sympathetically to help Mr H repay a relatively small debt without issuing a default. Whilst, unfortunately, this was eventually something that had to be done, I don't think this means NewDay acted unfairly in its efforts before this. So, I find no grounds to ask NewDay to either remove or backdate this default.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 30 April 2026.

Asma Begum  
**Ombudsman**