

complaint

Miss T and her representative complain about a letter NewDay Ltd sent her which they say was misleading.

background

Miss T wanted to start a section 75 Consumer Credit Act claim with NewDay to obtain a refund for some damaged items bought from a retailer. But NewDay referred her to the retailer rather than also giving her information about how to go about a section 75 claim. Her representative says New Day's letter to her of 3 July 2018 was misleading.

Miss T has subsequently pursued a section 75 claim with NewDay but this complaint is only about the letter it sent out, not that claim.

Our investigator felt this complaint should be upheld. He said he understands why Miss T believes the letter NewDay sent on 3 July 2018 was misleading and could've provided more information on her options. It referred her to the retailer but it should've also provided information on how to make a section 75 claim. And it would've been fair for it to explain her options with NewDay as well. Despite this Miss T wasn't inconvenienced too much as she made her section 75 claim to NewDay within a week of receiving the letter. He isn't asking NewDay to pay her any compensation.

Miss T's representative remains unhappy and has asked for an ombudsman review. He says NewDay's letter was deliberately misleading and it didn't want her to raise a section 75 claim.

my findings

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

It was reasonable for NewDay to suggest in its letter of 3 July 2018 that Miss T should contact the retailer about the quality of the items she'd bought. But I agree that it would've been helpful and appropriate for it to have also mentioned the rights she might have against NewDay and how to go about making a section 75 claim.

Even so this failing clearly didn't cause Miss T any real or significant inconvenience as she made the section 75 claim to NewDay on 10 July 2018, within a week of receiving its letter to her.

All consumers spend some time and experience some additional inconvenience in dealing with a complaint and putting things right. We wouldn't generally recommend they're compensated for this and I'm not persuaded that I can reasonably depart from this approach in this case.

Furthermore I note Miss T has started County Court proceedings against both the retailer and NewDay and part of her claim is for damages for the stress and anxiety trying to resolve matters. So, I think the question of any award of compensation is a matter properly left to the County Court to consider.

Overall I think the investigator's proposed resolution of this complaint is fair and I don't think I can reasonably require NewDay to do anything.

I don't see any reason to change the proposed outcome in this case.

my final decision

I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 25 March 2019.

Stephen Cooper
ombudsman