

complaint

Mr C is unhappy about the balance on his Marbles credit card and about the lack of communication from NewDay Ltd about his account over a number of years.

background

I set out the background to this complaint and my provisional conclusions by way of a provisional decision – a copy of which is attached and forms part of this final decision. For the reasons I set out I concluded that with the exception of its handling of Mr C's complaint, NewDay hadn't done anything materially wrong in operating his account. And I considered that NewDay's offer of £100 compensation for its service shortcomings in dealing with Mr C's complaint, to be fair and reasonable in the circumstances.

I invited Mr C and NewDay to let me have any further evidence and arguments they wanted me to consider before making my final decision. Both parties responded to the provisional decision.

Mr C said he believed the matter had now gone on long enough and that he had in any event paid off his outstanding balance in November 2019.

NewDay said that as my provisional findings mirrored the offer it had already made it had nothing further to add.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same conclusions as I did in my provisional decision.

my final decision

My decision is that I uphold this complaint in part and require NewDay Ltd to pay Mr C £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 April 2020.

June Brown
ombudsman

copy of provisional decision

complaint

Mr C complains that he can't possibly owe more than £800 on his Marbles credit card as he has made regular direct debit repayments totalling in excess of £3,000 since December 2013 when his balance was then only £800.

He also complains that he heard nothing from NewDay after 2013 until he contacted them in 2019 to find out why he still had an outstanding balance. He says that NewDay was very unhelpful, and told him that although his card had expired he still owed money. He then complained to NewDay and stopped his direct debit repayments for some months resulting in arrears markers on his credit file.

background

Mr C has said he has had no correspondence about his Marbles card since December 2013. He says that although he spent periods working away from home, his main UK residence remained the same until 2016. He says he's always informed NewDay of address changes and, of note, when he wrote to the business in 2016 saying that he would be moving that letter was returned as undeliverable.

In 2019, and as part of his retirement planning, Mr C checked his finances and was astonished to find that he was still making monthly direct debt repayments to his Marbles credit card that had expired years previously. He obtained bank statements and calculated he'd repaid over £3,000 since December 2013 when his balance was some £800. He therefore contacted NewDay and finding the business very unhelpful, submitted a complaint.

Initially NewDay was unable to record Mr C's complaint because he'd quoted an incorrect account number and hadn't provided his address. Mr C replied but still didn't provide the necessary details and so NewDay closed its file. But when, a short time later Mr C supplied the required information, NewDay failed to link this to Mr C's previous correspondence and instead set up a new complaint. However, it then didn't provide a substantive response to Mr C and so he complained to us.

In summary our investigator concluded that Mr C owed the money claimed by NewDay. But he thought that NewDay should have done more to trace Mr C once it knew that the address it held for him was wrong. Our investigator also said that he believed that if Mr C had been receiving statements he wouldn't have continued making only minimum repayments for so long, and more likely than not would have repaid his balance in full some time ago. Our investigator therefore recommended that NewDay clear any arrears charges and markers on Mr C's credit file resulting from his cancelled direct debit. This action should be additional to the business paying Mr C the £100 it had recently offered for the poor handling of his complaint.

Mr C wasn't happy with this outcome mainly because he remained unconvinced about the accuracy of the claimed outstanding balance on his account. And NewDay also didn't accept the investigator's findings because it thought he had no sustainable basis for his conclusion that Mr C would have repaid his balance sooner if he had received statements. NewDay also doubted whether Mr C had notified it of his address changes.

The complaint has therefore been referred to me for an ombudsman's decision.

my provisional findings

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

Mr C's complaint falls broadly into the following two main areas: the accuracy of his balance; and the absence of communication from NewDay over a number of years.

Turning to the first of these, Mr C believes he can't possibly still owe around £800 when he owed that amount in December 2013 and has repaid more than £3,000 since then. In support he also cites the very large variability in his repayments some months, which he says shouldn't have happened given that he wasn't using his Marbles card. In particular he points to the minimum repayment being £5.25 in May 2015 only for it then to rise to £32.21 in July 2015 without any intervening card spending.

Unfortunately, Mr C's recall of the amount he owed in December 2013 is inaccurate as his statement shows his outstanding balance that month as being £1,535.66. His November balance was £1,551.05, interest (APR 38.9%) was £41.76 and he repaid £57.15. And so it is clear from this that Mr C's debt was reducing very slowly and it is therefore entirely understandable why, some six years later, he still had a significant outstanding balance.

Mr C has pointed to the unexplained variability in his monthly repayments in support of his belief that NewDay's calculation of his outstanding balance must be incorrect. I have looked at his statements for the months he has mentioned and can see that in April 2015, in addition to his £45.47 repayment, NewDay also credited a PPI cheque to his account for £1,033.53. As a result the outstanding balance carried through to his May statement was only around £235 when it would otherwise have been almost £1,300. Consequently his May repayment was much reduced at just over £5.00. But NewDay appears to have made an error in crediting the PPI cheque to Mr C because it deducted it again in June 2015 and noted on that statement that it had been paid in error. As a result Mr C's balance – and repayments – returned to their expected levels.

I can fully understand Mr C's concern about what happened here, and his subsequent lack of confidence in any of NewDay's calculations. NewDay hasn't explained why it made the error it did, but I am satisfied that having rectified it Mr C's account properly reflected the amount he still owed. And in fact Mr C was marginally advantaged by the error as his balance was erroneously low for some months, which resulted in interest charges being lower than they should have been. Mr C continues to believe that he doesn't owe the sum claimed by NewDay, but having looked at his statements I am satisfied that he does.

Mr C has also complained about the lack of communication from NewDay since 2013. He said that up until 2016 his permanent UK address hadn't changed, and so he should have received all statements and other account notifications at least until then. Mr C says his 2016 change of address letter was returned undelivered because the business had changed its name and moved. And he says that as he was unable to find a new address he took no further action until he realised in 2019 that he was still repaying a debt he believed had been repaid years previously.

For its part NewDay has said that Mr C opened his account in 2001 when it was administered by HSBC. This transferred to Lloyds in 2009, then to SAV Credit in 2012, which re-branded to NewDay in 2014. NewDay has said that even if Mr C hadn't received the formal notifications sent to him about these changes, the changes of name should have been apparent on his bank statements as his repayments were by direct debit.

NewDay says Mr C originally had a Nottingham address, which changed to a BFPO address in 2012 before reverting to the Nottingham address in early 2014. NewDay has said that in May 2014 correspondence it had sent to the Nottingham address was returned. It therefore placed a hold on Mr C's account, which prevented all further correspondence – including account statements – from being sent to him. However NewDay continued to send notifications required by regulation to Mr C's last known address.

In response to our investigator's view that the business should have done more to trace Mr C, NewDay has said that the onus is on the customer to notify it of address changes, that Mr C continued to make the required monthly repayments and so it didn't need to trace him, and that if it had instigated a trace it would have charged Mr C.

The key dates here appear to be that Mr C has said he didn't receive any account correspondence after 2013 and that he tried unsuccessfully to notify a change of address in 2016; and NewDay says it stopped sending him statements in 2014. Contractually, Mr C was required to maintain his minimum repayments, which he did, and to inform NewDay of any change of address. He should have been aware from 2013 that he was no longer receiving statements and he appears to have been content for that situation to continue until 2019, although I recognise that he tried unsuccessfully to contact NewDay in 2016. And Mr C should also have known from his bank statements that he was still repaying his debt for all of those years despite his belief that it had been fully repaid. I recognise that Mr C says that he often worked away from home for long periods with his wife having oversight of his affairs whilst he was away. But that notwithstanding it remained his responsibility to manage his account.

I have looked at what financial detriment, if any, the lack of correspondence from NewDay has caused Mr C and my conclusion is that it hasn't. I say this because from the information I have I cannot reasonably conclude that had Mr C been receiving statements he would either have increased the level of his repayments or repaid his debt in full.

With respect to the arrears markers on Mr C's credit file, it is unfortunate that he decided to stop his repayments when he contacted NewDay in 2019. Mr C was contractually required to repay the money he owed the business and when he broke that contract by stopping his repayments NewDay was entitled to record each missed payment on his credit file. I shall not therefore require NewDay to amend Mr C's file.

NewDay has acknowledged that it didn't deal with Mr C's initial complaint as well as it should have done and offered him £100 compensation. This seems to me reasonable recompense for its unsatisfactory customer service.

my provisional decision

My provisional decision - subject to anything I receive from the parties by 13 March 2020 - is that NewDay Ltd should pay Mr C £100.