

Complaint

Mrs P complains that NewDay Ltd didn't provide her with the service they should have in regard to her credit account. She says that they failed to waive interest and charges when she explained her financial situation and applied a default when a repayment plan was in place.

Background

Mrs P entered into a credit agreement with NewDay in 2002. In January 2018, she contacted NewDay to explain she was experiencing financial difficulties and asked for the interest and charges to be waived on her account. She says the adviser was rude and said she would only remove one £12 fee.

In April 2018, Mrs P says she contacted NewDay to explain she had tried to put things right on her account in January and was treated unfairly. At this point she says a repayment plan of £10 a month was agreed. Mrs P says that even though a repayment plan was in place she received numerous calls and letters. She answered a call in June 2018 and says she was told there was no repayment plan in place. She explained there was a plan in place and says she was told this would be updated and she wouldn't receive anymore calls and her credit file would be updated. However, following this she received further contact saying a plan wasn't in place and then that a default would be registered.

Mrs P says that she didn't continue to make her £10 a month payments because she was told there was no plan in place.

In response to Mrs P's complaint, NewDay says that Mrs P made the first payment due under the repayment plan five days late and so the repayment plan was broken. They acknowledged that in their final response letter dated May 2018, they suggested a payment plan was still in place and because of this they offered to refund the interest and charges from this point (£15.73) and pay £75 compensation.

NewDay says that Mrs P's account was defaulted and sold to a third party on 31 October 2018. They say the default should remain as the amount Mrs P was paying (£10 a month) wasn't enough to bring her account up to date.

Mrs P didn't accept NewDay's offer. She said that further charges were applied to her account and that she had told them that as well as paying £10 a month towards her account she would settle the outstanding amount once she had repaid another debt. Mrs P wanted all interest and charges to be removed. She wanted more compensation to reflect the upset she had been caused saying that she received threatening calls and letters even after she was told these would stop. Mrs P also said the default should be removed from her account.

Our adjudicator thought that NewDay should have told Mrs P that her repayment plan had been broken when they sent their final response letters. He also thought that NewDay hadn't done enough to allow Mrs P to bring her account up to date before a default was applied. As well as paying Mrs P £75 compensation and refunding her £15.73 for the interest and charges, he recommended that NewDay buy back Mrs P's account and remove the default.

NewDay didn't accept our adjudicator's view. They said a default notice was issued in 2017 when Mrs P had previously been in arrears. They said that although Mrs P believed there to be a repayment plan in place this wasn't the case. They also said that the payment of £10 wasn't enough to stop the arrears building up and her account being sold and a default being applied. They reiterated their offer to refund £15.73 in interest and charges and pay £75 compensation but didn't accept it should buy back Mrs P's account and remove the default.

My provisional conclusions

I issued a provisional decision on this complaint. I concluded in summary:

- the charges added to Mrs P's account were applied in line with the terms and conditions;
- Mrs P discussed having charges removed from her account and the adviser tried to offer support by removing a fee and explaining that a complaint could be raised. Although Mrs P didn't feel she had been assisted on this call I thought the adviser did try to help her. A complaint was raised and NewDay provided a final response in which they said two further fees would be refunded. I thought that Mrs P was dealt with fairly at this time;
- in March 2018, it was agreed that a payment for £10 could be set up on Mrs P's account and further information was given about dealing with financial difficulties. Although the adviser said the plan would be set up the call was then terminated and this didn't happen. I accepted that Mrs P believed a plan was in place at this time;
- Mrs P received calls after this date because the repayment wasn't set up. This was upsetting for Mrs P. On the call in April the situation was explained and the repayment plan set up with payment due on 25th of the month and interest and charges were suspended;
- the first payment due under the repayment plan was paid five days late. Mrs P then made payments in May, June and July. Although the repayment plan had been broken by the first late payment Mrs P wasn't told this. The final response letter received after this date suggested the plan was still in place and subsequent letters did not make the situation clear. Because of this I didn't think that Mrs P was provided with the service she should have been as she wasn't informed that her repayment plan was no longer in place;
- interest and charges weren't applied for a number of months after the repayment plan was broken and NewDay offered to refund the charges applied from May 2018, being a £12 charge applied in October 2018 and £3.73 interest also applied in October. They also offered to pay Mrs P £75 compensation for the upset caused. Given this refunded all the charges and interest from May I found this a reasonable response to this issue;
- the outstanding issue related to the default that was applied to Mrs P's account on 31 October 2018. Mrs P had been served a default notice in 2017 when she had experienced issues with her account. The account wasn't defaulted at this time and following contact in 2018, I found that NewDay did try to assist Mrs P by setting up a repayment plan. Mrs P didn't make any payments after July 2018;
- a notice of arrears was sent to Mrs P dated 10 September which included information saying that further action could be taken. Mrs P's account had been in arrears for an extended period of time;

- a further letter was sent dated 11 September 2018 saying that a default would be registered if payment wasn't made within 28 days. This letter referred to the default notice that had been previously sent. While I understood the default notice was sent in 2017, I thought this letter gave Mrs P sufficient notice of what would happen if payment wasn't made;
- Mrs P said that had she understood the situation she would have cleared the arrears but I hadn't seen anything to support this and I thought the information she received gave her the opportunity to make a repayment had this been her intention. As this didn't happen, I did not find that I could say NewDay acted unfairly by taking further action and applying the default.

Mrs P didn't accept my provisional decision. She said she had evidence to show that she could have paid the account in full.

My findings

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

I note the comment made by Mrs P in response to my provisional decision. However as no new information has been provided my decision hasn't changed.

As I set out in my provisional decision, I don't think Mrs P was provided with the service she should have been in regard to information about her repayment plan. However I find the offer made by NewDay to refund of £15.73 for the interest and charges applied to her account from May 2018 to October 2018 along with £75 compensation for the upset caused is reasonable.

I do not find that the default was applied unfairly. Having looked through the information that was provided to Mrs P I find that she was given enough to know what would happen if the required payments weren't made. I think she was given the opportunity to prevent the default being applied and as she didn't make the required payment I do not find that NewDay did anything wrong by taking further action.

My final decision

My final decision is that NewDay Ltd should, as they have offered, refund £15.73 for the interest and charges applied to Mrs P's account from May 2018 to October 2018 and pay her £75 compensation for the upset caused by not informing her that her repayment plan was no longer in place.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 28 February 2020.

Jane Archer
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