

complaint

Mr H complains that NewDay Ltd issued a default notice after it had sold his debt.

background

The adjudicator has set out the background to this complaint in some detail and there is no need to repeat it here. In short Mr H fell into financial difficulties in 2011. He let NewDay know and it agreed an informal payment arrangement. In May 2013 NewDay sent Mr H a default notice which explained that his credit file could be affected. Another letter was issued which Mr H says he didn't receive until 2016.

The default was registered and the debt was sold in 2013. Mr H subsequently made arrangements to pay the debt with the company which bought it. In 2016 NewDay wrote to Mr H with a notice of intent to file a default. It says it didn't follow its correct procedure in May 2013 as it only provided him with a default notice and not the initial notice of intent.

Mr H complained and this was rejected by NewDay so he brought the matter to this service. It was investigated by one of our adjudicators who recommended that it be upheld in part. He considered that NewDay hadn't followed the correct procedures when registering the default in 2013, but he didn't consider Mr H was in a position at that time to clear his debt. As such he didn't think it right to ask NewDay to remove the default.

However, he hadn't seen any convincing evidence that NewDay had been in contact with Mr H since selling the debt and so he didn't think it appropriate that the debt be re-reported in 2016. He also thought NewDay should increase the compensation it had offered from £25 to £150.

Mr H agreed, but NewDay didn't. It said the default had been re-registered by the business which bought the debt to the correct date of 30 September 2013. It said this would drop off his credit file in September 2019. However, it didn't think Mr H had suffered such distress and inconvenience to merit a payment of £150. It said it had offered to other customers in similar circumstances.

my findings

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

In 2016 it seems NewDay were trying to address a previous systems error which had resulted in the default process not being properly followed. However, by that time the debt had been sold and Mr H had entered into an arrangement to pay with the debt's owner which I gather he was maintaining.

I can appreciate his shock and worry that something he thought had been resolved as far as NewDay was concerned had raised its head again. I am satisfied that Mr H had been through a very difficult time back in 2011 though to 2013 and had sought to deal with his financial problems. The letter from NewDay and the subsequent correspondence will have caused him distress and inconvenience, not least because it gives the impression that NewDay still owns the debt.

I agree with the adjudicator that the original default should stand - it is a fair reflection of Mr H's situation at the time. NewDay confirms that the default won't be re-registered and I consider that to be reasonable. The only issue remaining therefore is the matter of compensation. I note NewDay says it has offered £25 to other customers in a similar situation to Mr H. That may be the case, but this service treats each complaint on its own merits and I consider £150 to be fair and reasonable and to reflect the distress and inconvenience suffered by Mr H as he tried to unravel this situation.

my final decision

My final decision is that I uphold this complaint and I direct NewDay Ltd to pay Mr H compensation of £150. For the avoidance of any doubt I would add that it should not re-register the default. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 March 2017.

Ivor Graham
ombudsman