

complaint

Mr M is unhappy he went over the credit limit on his credit card account. He says this is due to NewDay Ltd deducting a credit made in error. He has asked NewDay to increase his credit limit to cover his current balance and for his credit file not to be affected if he doesn't pay the overdue amount back.

background

In July 2017 NewDay applied a credit to Mr M's credit card in error. Later in the month Mr M says he checked the balance of his card and withdrew some cash - which was within his available balance. At the beginning of August 2017, NewDay realised the error it made – and deducted the credit. Given all the spending on the account, this meant the amount Mr M owed was more than his credit limit.

NewDay has apologised to Mr M and offered him £25 for the inconvenience he'd been caused. It has also refunded charges to the account for being over the credit limit.

I sent Mr M and NewDay a provisional decision on 20 November 2017. This explained that I intended to uphold Mr M's complaint for the following reasons:

I explained it wasn't in dispute that NewDay made an error in applying a credit to Mr M's account. So, I needed to consider what happened afterwards and whether NewDay treated Mr M fairly given the situation.

In her assessment, our investigator said she thought it was Mr M's responsibility to monitor his spending. She said as Mr M received a statement showing the credit, he should've realised this wasn't his and queried it before spending any money.

I could appreciate the point the investigator made. But, Mr M said he didn't check his statement. He said he only checked his available balance before spending the money - so didn't realise the error.

I thought both parties in this case had made mistakes. NewDay shouldn't have credited Mr M's account with funds that weren't his. And, Mr M shouldn't have spent them. But, I didn't think was fair that either party lost out financially because of this.

The credit made to the account was not meant for Mr M's card. So, I didn't think there was anything wrong with NewDay reversing this.

NewDay said as it removed the charges for being over the limit on his card and credited him £25 compensation, Mr M hasn't suffered any financial loss. But, Mr M said he can't afford to cover further charges and pay a lump sum to get his account back in credit – so he'd incur further 'over limit' charges until he can bring the balance back within his credit limit. As long as Mr M is at least maintaining the minimum payment on his credit card and trying to get his account back within its limits, I didn't think it was fair that he should incur further fees.

Mr M said he doesn't believe this should affect his credit rating. Taking everything into account, I didn't think Mr M would've gone over his credit limit if NewDay hadn't credited his account incorrectly. So, I thought it was fair that Mr M's credit report shouldn't show any defaults or adverse markers.

I also explained that Mr M had use of the money he withdrew. Whether he was over his credit limit or not, he would expect to pay interest on this amount. So, I thought it was fair that he should continue to pay interest on the amount over his limit, at the standard rate for his card, until it's repaid.

I gave both parties until 4 December 2017 to respond with any additional comments or evidence.

my findings

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

Mr M responded and said he agreed with my provisional decision.

NewDay responded and said it'd already done some of what I suggested in my provisional decision.

I've thought about all the information on this complaint again. Having done so, I still think it should be upheld. This is due to the reasons I've explained above.

putting things right

NewDay should:

- Refund any further charges applied already for Mr M being over his credit limit since 2 August 2017 to the present date, along with any interest incurred by these charges
- Not apply any further charges to Mr M's account for being over his credit limit, until his account is back within his credit limit*
- Remove any defaults or adverse markers on Mr M's credit record, from 2 August 2017 to the present date
- Not add any further defaults or adverse markers to Mr M's credit file until Mr M is back within his credit limit*

Once Mr M's account has returned within his credit limit (after interest has been applied for the statement period) if he goes back over his limit, NewDay should be able to apply charges and adverse information to his credit file as normal.

If Mr M either misses the minimum payment due on his account, or spends further on his credit card, NewDay should put his account back onto standard terms.

*As an alternative to this, NewDay could decide to increase Mr M's credit limit to avoid further charges and adverse credit markers being added automatically. But, that's something for them to consider rather than a direction I'm making. And, if they choose to reduce his limit to the original amount once the balance falls below the original limit, this would probably be fair.

my final decision

My final decision is that I uphold this complaint. I instruct NewDay to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 February 2018.

John Bower
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