

complaint

Mr D's unhappy that NewDay Ltd sold his account to a third party.

background

Mr D says he agreed with NewDay to make six monthly £100 payments to get his credit card account back within its limit. But in the fourth month he found out his account wasn't accessible, had been suspended and was about to be sold to a third party. He says NewDay agreed to credit his account with £10 as he may've been misled. He's unhappy with the way NewDay has dealt with him as he was making the agreed payments. He wants it to take back his account and honour the agreement. He's also unhappy that this will have given him a bad credit rating. And he says it's affected his health.

NewDay said in its final response that Mr D was keeping to the agreed payments but it preselected his account for sale to a third party, as it reserved the right to do. This was because his account was in arrears and original agreement had been breached. It'd credited £10 to Mr D's account. It subsequently accepted that its agent had given Mr D misleading advice and this had caused him distress. It offered to pay him £100 for this.

Our investigator felt this complaint shouldn't be upheld. She said:

- NewDay has said Mr D agreed to a hardship plan. Its agent should've told him that the payment arrangement would be reported to credit reference agencies, that provided the arrangement is maintained arrears will not accrue and that even if payments are made the account may still be sold. NewDay accepts its agent failed to do so and it'd made an error.
- Even so NewDay was within its rights to sell the account to a third party as Mr D was in breach of his original credit agreement. It's also said it cannot repurchase the debt from the third party as that would automatically charge it off and wipe it out which would mean his credit record would inaccurately reflect the situation.
- The third party will apparently continue with the original payment arrangement. NewDay also says Mr D didn't have the use of his credit card and selling the debt hasn't changed that or negatively affected his credit file. Mr D also hasn't been financially disadvantaged by NewDay's error. NewDay's offer of compensation is in line with what we would recommend and she won't be asking it to do anymore.

Mr D remains unhappy and has asked for an ombudsman review. In summary he's unhappy that he's been told by the third party that it will record a default on his credit file. He agreed to pay NewDay to avoid this happening. But this level of payment isn't affordable for him.

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 agree with the investigator that NewDay was entitled to sell Mr D's account and debt if it wished to even if he was maintaining his agreed repayments as he had breached the terms of his original credit agreement by the time these repayments were agreed.

It doesn't appear that sale of Mr D's account and debt to the third party has negatively impacted his credit record as he feared. The third party would've apparently also kept to the repayments he agreed with NewDay. But when they end it will be up to the third party and Mr D to come to an agreement for the repayment of what remains outstanding. I also note why NewDay says it cannot buy back the account and debt from the third party.

Its clear NewDay's agent could've advised Mr D better and it's accepted it made an error. As Mr D doesn't appear to have been disadvantaged financially and as his credit file seems not to have been adversely affected by this error, I think its fair for NewDay to compensate Mr D just for any distress and inconvenience he experienced as a result of its error. NewDay has already credited £10 to Mr D's account and has recently offered to pay him an additional £100 for this.

Taking every thing into account, including the level of awards we make, I think that's fair. And I don't think I can reasonably ask NewDay to do or pay anything more as Mr D would like. I simply leave it to Mr D to decide if he now wishes to accept NewDay's offer of an additional £100 compensation.

It's unfortunate if Mr D feels the third party isn't abiding by what NewDay agreed and that he's unhappy it's said it may record a default on his credit file. But the default doesn't appear to be related to the fact the account was sold to the third party. These are now matters between Mr D and the third party. And they're not something I can consider in this complaint. If Mr D remains unhappy with the way the third party is dealing with him or responding to his financial difficulties he should raise his concerns with the third party in the first instance.

Overall, although I recognise Mr D's frustration and strength of feeling, I don't see any compelling reason to change the proposed outcome in this case.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 29 May 2019.

Stephen Cooper
ombudsman