

complaint

Miss T complains about the way that NewDay Ltd has handled her account. She wants it to buy back her account and give her compensation.

background

Miss T has a store card account and set up a direct debit to pay off the minimum amount each month. Her card expired and so she renewed it. But instead of renewing it, Newday set up a new account. She then started to receive arrears letters for missed payments.

Miss T contacted Newday and was told there was only one active account on file. This led to her cancelling her direct debit in November 2013, as she could not link her direct debit to her store card account. Eventually the new account was closed, the balance transferred to the original account and she was paid £30 compensation and refunded £96 late payment fee and a £25 trace fee.

In June 2014, the account was bought up to date and a new direct debit was set up. But the account was unexpectedly sold to a third party without warning. Miss T was unhappy that her account was sold.

Newday says it has not made an error and did not sell her account because it was a bad debt. It sold it as part of a portfolio. It does not think it has done anything wrong and so does not need to pay compensation or buy back the debt.

The adjudicator upheld the complaint. She said the problems with Miss T's account were made worse by Newday giving wrong information. Further Newday admitted it failed to update Miss T's address in April 2013 and then charged her a trace fee. She recommended that Newday;

- pay Miss T £150 for distress and inconvenience;
- send a letter of apology to Miss T;
- buy back her account and ensure nothing adverse is written on her credit file.

Newday has agreed to remove anything adverse from the credit card, but is not prepared to buy back the account, or pay compensation.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I agree with the adjudicator for much the same reasons. In this case the level of service offered by Newday fell far short of what is expected. Newday made a number of errors with the account. It accepts it did not update Miss T's address in April 2013 when she informed Newday of the change. This resulted in letters going to the wrong address and she incurred a trace fee that has since been refunded.

Newday also mistakenly opened a second account rather than just providing a new card on the old account. This meant that the direct debit that Miss T had set up did not pay off the minimum balance. The direct debit was still being taken, but Miss T continued to receive arrears letters. These payments continued until November 2013, when Miss T cancelled the direct debit as she could not identify where the money was going. Further, I accept that she went into the store where she holds the account to check she had not been given a new account. I accept she was told she only had one account. Newday failed to give her clear information or help when she made enquiries. I agree with the adjudicator that if she had received the help she required from Newday she would not have cancelled the direct debit.

Newday also failed to respond within a reasonable timescale to Miss T's letters to it. This also made the situation worse and meant problems with her account remained unresolved for a longer period.

Miss T bought her account up to date on 5 June 2014 and reinstated her direct debit. I find this evidenced her intention of making her monthly payments. She stopped because her payments did not appear to be reaching her account. I find her account fell into arrears largely because of the mistakes made by Newday and the low level of service it provided to her. On balance, I am satisfied that she would have continued to make payments had she received clear information and help from Newday and if there had not been confusion over the second account.

Newday sold her account to a third party in November 2014. It is entitled to transfer accounts without notice under its terms and conditions. It says her account was not sold as a bad debt. Yet in its correspondence to this service, Newday explained that the account was preselected for transfer prior to being bought up to date. On balance, I find that Newday sold the account to a third party, due to it being in arrears. I have already found that the problems with the account were largely caused and compounded by Newday. In view of this, it is fair and reasonable for Newday to buy back the account. If there had been no problems with the account, on balance, I do not think the account would have been sold. I find that Miss T only missed payments because of the confusion over her account and this was caused by Newday.

Miss T has suffered distress and inconvenience and it is fair and reasonable to award £150 for the distress caused.

my final decision

My final decision is that I uphold this complaint and order Newday Ltd to;

- buy back the account from the third party;
- send a letter of apology to Miss T;
- pay £150 for the distress and inconvenience caused; and
- ensure that no adverse information is noted on Miss T's credit file (noting that Newday has confirmed that it has done this by letter dated 24 June 2014).

Under the rules of the Financial Ombudsman Service, I am required to ask Miss T to accept or reject my decision before 22 June 2015.

Clare Hockney
ombudsman