

complaint

Mr S complains that NewDay Ltd has wrongly allowed him to exceed his credit limit and charged a fee.

background

Mr S has said NewDay has allowed transactions which have taken him over his credit limit and it should not do this. He wants NewDay only to authorise transactions up to the credit limit. NewDay has explained to Mr S that sometimes it does authorise transactions to prevent embarrassment and it has refunded the fee as a gesture of goodwill. Mr S is not happy with NewDay's explanation and considers that it should not allow him to exceed his limit.

Our adjudicator did not recommend that the complaint should be upheld. She considered that NewDay had acted reasonably and in line with the terms and conditions of the account. Occasionally transactions are not presented for authorisation and so NewDay is not always able to decline transactions that exceed the credit limit. Mr S did not agree with the adjudicator's conclusion and responded to say in summary that her view was not consistent with NewDay's explanation and the charge was being applied unfairly and perversely.

my findings

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

Mr S is not happy that NewDay allow transactions which take the account over the credit limit and then charge a fee. He considers that only transactions up to the agreed limit should be authorised. New Day has explained to Mr S that the reason for allowing the transactions is to prevent embarrassment. Mr S says that he doesn't know that his account is over the limit until the card is declined because the information is sent in the post which can take weeks to arrive. In his view NewDay should be able to decline all transactions that take the account over the limit.

This service is not the regulator and so I can't tell NewDay how to operate its business. I can look at whether it has treated Mr S fairly and reasonably in these circumstances. I can see that Mr S exceeded his credit limit and incurred a fee and as a gesture of goodwill NewDay has refunded that fee. Mr S is not out of pocket because of this.

The problem arises if a retailer does not present a transaction for authorisation. In these circumstances NewDay are not able to decline the purchase and must honour it when it is presented for payment. It is therefore possible that Mr S could exceed his credit limit in the future. I think that it is fair and reasonable to expect Mr S to monitor his spending on the account. If he is approaching his credit limit he can check his balance over the phone and online. Mr S says that the website shows the available balance which includes authorised transactions and so I think he should have a fair idea of the balance of the account even if it is not updated immediately after every purchase.

I have looked carefully at the terms and conditions of Mr S's account. Condition 12.2 (c) states, "In exceptional circumstances, we may allow you to exceed your Credit Limit as a service to you. Even if we allow this, you will still have to pay the Over Limit Fee detailed in

Condition 8.1. Condition 8.1 confirms that a charge of £12 will be made for each occasion the credit limit is exceeded.

I can understand why Mr S is upset that NewDay has allowed him to exceed his credit limit after he has said that he does not want this service. But I can't say that NewDay has made an error or treated Mr S unfairly. I can't ask it to change its terms and conditions or make it operate in a different way and so I am unable to uphold Mr S's complaint.

my final decision

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 12 June 2015.

Emma Boothroyd
ombudsman