

complaint

Mr A complains that NewDay Ltd didn't treat him correctly when he was experiencing financial difficulties.

background

In 2010 Mr A was having difficulties making his contractual repayments. Via his agent he put forward a proposal to NewDay under which he'd pay it less than he owed it. He also sent it information about what money he had coming in and going out.

It looked at his proposal and the other information he'd sent. It thought he could afford to pay more so it rejected the proposals. But it wasn't able to show it ever told Mr A this. It continued to apply interest and charges to his account, until 2012. At this point it agreed a new repayment plan with him.

Our adjudicator thought if NewDay had told Mr A its decision he might have acted differently. In particular she thought he might have avoided the charges and interest. But she did think it acted fairly in rejecting the proposal given what it was told about Mr A's financial situation. She thought that the way to put things right was for NewDay to pay Mr A £150 for distress and inconvenience.

We don't seem to have received a response from Mr A to this recommendation. NewDay rejected it. In summary it said, it hadn't done anything wrong. It suggested if Mr A had thought it accepted his offer why hadn't he made payments to reflect this. It asked for an ombudsman's decision.

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 think we've got an unfortunate situation here. With on the one hand Mr A wanting more help than he got when he was going through a difficult time. And on the other NewDay suggesting its actions were appropriate and pointing out that his actions were inconsistent.

Financial businesses are under a regulatory obligation to treat customers with financial difficulties positively and sympathetically. With the cooperation of the customer, this may include developing repayment plans or accepting reduced payments. It could also involve freezing/refunding interest, or even writing off all or part of the debt. But no individual lender is obliged to do any of these things. However, this is a two-way process and both parties need to co-operate to achieve this. And financial businesses are entitled to make decisions based on what they know about their customers.

Here the interest and charges were applied it seems in line with the relevant terms and conditions. And as both parties had agreed to these I don't see why they shouldn't have been followed, as a starting point.

I can see why NewDay rejected the proposal as it seemed Mr A could afford to pay much more given what he'd told it about his financial situation.

That said, I think the correct thing to have done was to tell Mr A what its position was and why and to do this quickly. It's strange though that Mr A's agent didn't act more quickly as well and chase him up with NewDay. And given this I don't think that Mr A would've most likely have avoided the charges and interest if NewDay were quicker off the mark.

That said, I think by not telling Mr A what it's thinking was, when it should've done, NewDay caused Mr A distress and inconvenience. I think £150 is an appropriate award for this.

my final decision

My final decision is that NewDay Ltd should pay Mr A £150 for distress and inconvenience.

If Mr A doesn't receive the settlement within 28 days of accepting my final decision NewDay should add interest to the £150. The interest should be applied at the rate of 8% simple per year; the interest to run from the date of my final decision to the date of settlement.

If NewDay considers tax should be deducted from the interest element of the award, it should provide Mr A with a tax deduction certificate so he can reclaim the tax if he is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 18 August 2017.

Joyce Gordon
ombudsman