

## **complaint**

Miss M complains that NewDay Ltd cancelled her direct debit. And that this led to arrears and a default on her account.

## **background**

Miss M took out a finance agreement to buy something from limited company C. At the time, the finance was administered by another lender. NewDay took over the finance agreement in 2014.

In early August 2014, NewDay says it tried to collect a payment but failed. It says Miss M or her bank must've cancelled the direct debit mandate. NewDay chased Miss M for payment but used her old address. As Miss M didn't bring the arrears up to date, NewDay recorded a default on her credit file.

Shortly after this service got involved, NewDay apologised for not transferring Miss M's direct debit to its' new system in August 2014. It agreed to remove any adverse information from August 2014 onwards including the default. It also agreed to refund the late payment charges of just over £80.

NewDay then withdrew the offer as it no longer thought the change in its system was to blame. NewDay said it tried to collect payment of the direct debit in early August – before the system switch happened later that month. It thought Miss M must've cancelled the direct debit herself. NewDay said it wrote to Miss M and called her about the arrears.

Our adjudicator recommended that Miss M's complaint be upheld. He considered it most likely NewDay made a mistake about the direct debit. And that as Miss M had told C and not the lender about her change of address, the lender hadn't updated her address details. This meant Miss M didn't know about the arrears on her account. Our adjudicator asked NewDay to remove the default from Miss M's credit file.

NewDay won't agree. It says it requested payment of the direct debit in August 2014 indicating either Miss M or her bank had cancelled the mandate, not NewDay. It also points out the terms of Miss M's account say she should've told the lender about her change of address – not C.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I agree with the conclusions of our adjudicator.

In cases like this, where the evidence is inconclusive, I reach my decision on the balance of probabilities. That means I'll look at all the available evidence and decide what I think is most likely to have happened.

Miss M's bank says the direct debit wasn't returned unpaid. This means it either wasn't requested or the mandate had been cancelled. I appreciate NewDay says it tried to collect the payment in early August 2014. And that this is evidence that NewDay didn't cancel the mandate itself.

I can't know what happened, but if Miss M had cancelled the direct debit I would've expected NewDay to receive notice of this. NewDay can't show that it received any notice because of the change to a new system. Miss M is adamant that she didn't cancel the mandate. On balance, I accept what she says.

Miss M says she told C that she'd moved address in 2013. I appreciate NewDay says Miss M should've sent her new address details to the previous lender – not C. But I understand why Miss M thought she'd done enough at the time. NewDay doesn't have any record of the change but I don't have any reason to doubt what Miss M says.

As Miss M didn't receive any of New Day's letters, she wasn't aware of the arrears on her account. NewDay doesn't have any record of the calls that it says it made to Miss M so I can't reasonably find Miss M was ignoring NewDay.

I consider it likely Miss M intended to keep making the payments – particularly as the monthly amount wasn't significant. She's given us evidence that until August 2014 she'd never been arrears. And given the relatively small monthly repayments, I wouldn't necessarily have expected Miss M to notice they weren't being made. In the circumstances, I still consider it fair to require NewDay to remove the default recorded on her credit file.

I also require NewDay to refund the fees that it applied to Miss M's account during the period of arrears if it hasn't already done so. NewDay initially offered to do this. I understand the figure is £84. If this isn't correct, NewDay should let Miss M know.

### **my final decision**

My decision is that I uphold this complaint. In full and final settlement I require NewDay Ltd to do the following:

- Remove any adverse entries that it recorded on Miss M's credit file from August 2014 onwards, to include the default
- Refund the fees that it applied to Miss M's account during the period of arrears if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 1 March 2017.

Gemma Bowen  
**ombudsman**