

complaint

Mrs P complains that NewDay Ltd closed her store card account, but in doing so it failed to meet the statutory provisions of the Consumer Credit Act 1974. She also complains she was told her account had been sold to a third-party. But when asked to put this in writing, NewDay changed its position.

our initial conclusions

Our adjudicator didn't uphold the complaint. She didn't think NewDay had done anything wrong. She said Mrs M's account was in arrears, so NewDay removed the credit facilities from her account. She said the account hadn't been terminated and it remains open to receive payment. The account hasn't been sold to a third party.

my final decision

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I'm sorry to disappoint Mrs M, but I think the adjudicator's come to the right conclusion – I don't think NewDay has done anything wrong.

Mrs M broke the credit agreement with NewDay because she didn't make all of the required payments. Because of this, its terms and conditions allow it to withdraw credit facilities as it has done. It's terminated the agreement.

But Mrs M believes NewDay hasn't fulfilled the requirements of the Consumer Credit Act 1974 because it didn't serve her a default notice setting out what it was required to do. But I disagree – I think it has. The letter Mrs M refers to, which told her the agreement had 'been terminated', wasn't the first letter she got. Prior to this she'd been sent several default notices, which I think met the necessary requirements – including what future action NewDay might take if payment wasn't made. And this included terminating the agreement. So I don't think it's done anything wrong.

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs P either to accept or reject my decision before 23 November 2015.

Paul Featherstone

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

NewDay hasn't classed Mrs M's *account* as being in default – it remains open with it to receive payment. But she has *defaulted* on payments. And these are the default notices I referred to above.

Mrs M's *credit agreement* has been terminated – the credit facilities have been withdrawn. The terms and conditions of the agreement refer to NewDay's right to '*cancel or suspend the right to use the card or the account*'. I think '*terminate*' or '*cancel the right to use*' means the same thing.

Mrs M's account isn't with a third-party. She might've been told this – it's something NewDay can ultimately do. But if it did make a mistake by telling her this, I don't think Mrs M's suffered distress or inconvenience to the extent that it warrants compensation. I don't think it was '*oppressive conduct*.'

I confirm that NewDay *hasn't* registered a default with any of the credit reference agencies.

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.