

complaint

Mr W complains that NewDay Ltd trading as (Marbles) failed to provide him with assistance when he told them he was suffering from financial difficulties which resulted in a default being registered on his account.

background

In October 2016 Mr W opened a credit card account with Marbles. Mr W started spending on the credit card and monthly statements were issued from January 2017. Despite spending on the credit card Mr W made no payments towards it so Marbles wrote to Mr W in March 2017 about his missed payments.

Following Marbles letter Mr W wrote to Marbles explaining that he was struggling financially. In response to this Marbles immediately wrote to Mr W enclosing an income and expenditure form for completion and return, as well as confirming it had put a hold on his account for 30 days to give him time to send back the form. It also provided details of debt advice organisations he could refer to for help.

Having not received a response from Mr W, Marbles then sent a default notice requiring payment within 28 days. Before the expiry of the 28 days Marbles followed up its letter with a phone call to Mr W but were unable to make contact.

After still not hearing from Mr W or receiving a response to its letters Marbles took the hold off his account, defaulted his account and sold the debt to a third party.

Mr W phoned Marbles at the beginning of August 2017 and told it he had responded to its letters in kind but Marbles had no record of receiving any letters. Mr W then raised a formal complaint saying he had never received the income and expenditure forms and it had failed to assist him

Our adjudicator investigated Mr W's complaint but didn't think Marbles had done anything wrong as there was nothing to show it had received any contact from in Mr W in response to its letters. And as he had seen evidence from Marbles to show letters had been sent correctly addressed to Mr W it couldn't hold Marbles responsible if Mr W hadn't received these letters.

And because Marbles had given him the required notice of default and Mr W didn't make any payments towards his credit card account, he didn't think it had made any errors in defaulting him.

Mr W disagrees, so his complaint has come to me for a final 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. Having said that it might be useful for me to say here that my role is to look at problems that a consumer has experienced and see if the bank has done anything wrong. If it has, I would seek to put the consumer back in the position they would've been in if the mistakes hadn't happened. And I may award compensation that I think is fair and reasonable.

In Mr W's case I would expect on informing Marbles of his financial difficulties it would treat his financial situation both positively and sympathetically. To do this I think it reasonable that Marbles would need a full picture of Mr W's financial affairs in order to know how it would be best able to assist him. So its initial response of putting a hold on his account and sending out income and expenditure forms for completion and return is in line with what I would expect.

And I would also expect a customer facing financial difficulties and asking for help to be proactive in their approach to managing and taking control of their financial affairs. So when Mr W says he didn't receive any income and expenditure forms to complete I would expect him to follow up on this. But I've seen nothing to show that he did anything between his initial letter to Marbles in late March and his phone call in early August.

But the same can't be said for Marbles. I've seen a number of letters – recorded on its internal systems – sent to Mr W asking him to get in touch and address his credit card debt with it. So when Marbles didn't receive a response or any payments towards his credit card debt in four months, I don't think it did anything wrong in taking the next step after issuing a default notice and defaulting his account.

Mr W says other businesses didn't require completion of income and expenditure forms in order to assist him. It might well be the case that other creditors do do things differently – and that is fine – as ultimately it's up to the businesses to set its processes and procedures for managing its customers and any money they owe it.

So because Marbles hasn't done anything wrong, I don't uphold Mr W's complaint.

my final decision

For the reasons I've explained, my final decision is that I do not uphold Mr W's complaint against NewDay Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 26 February 2018

Caroline Davies
ombudsman