

complaint

Mr P has complained that NewDay Ltd didn't carry out adequate affordability checks when it gave him a credit card and increased the credit limit a number of times. He's also unhappy that NewDay refused to freeze and refund interest.

background

NewDay first gave Mr P the credit card in 2008. There were three credit limit increases: in 2010, 2013 and 2014 respectively.

In 2018 NewDay issued Mr P with a default notice, terminated the account and registered the default with credit reference agencies. Mr P was left owing the balance on his account.

NewDay has only consented to the ombudsman service investigating events that took place in the last six years. This means we haven't looked into the original issue of the credit card or the 2010 credit limit increase. There was no unknown or concealed information about those matters that only came to light in the last three years.

Our adjudicator concluded there were no reasonable grounds for her to criticise NewDay's decision to offer increases of the credit limit in 2013 and 2014. But she also concluded NewDay should have defaulted Mr P's account earlier than it did. So NewDay should adjust the default date and refund interest and charges for the relevant period.

NewDay didn't accept the adjudicator's conclusions. It thought they were an unwarranted interference in its policies and decision-making. NewDay said it was its policy to allow a customer in arrears time to pay before it moved to default. It also said (a) the guidance of the Information Commissioner wasn't prescriptive, it was ultimately for NewDay to decide what action it took regarding accounts in arrears and (b) it was NewDay's policy to charge interest and levy charges until the default was registered.

Mr P neither expressly accepted the adjudicator's conclusions nor challenged them.

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'm sorry to disappoint NewDay but I've reached the same conclusions as the adjudicator and for largely similar reasons.

It isn't the case – nor perhaps is NewDay actually suggesting – that NewDay's actions or even its policies or commercial decisions fall outside the scope of an ombudsman's investigation. But what's always the case is that the ombudsman service will look into how those matters have impacted on an individual consumer in a fact-specific way. We don't rule on policies in the abstract.

What caused both the adjudicator and me concern about the facts of Mr P's case is the protracted nature of the default process that NewDay employed. The default notice was issued in late July 2018 but it wasn't until late December 2018 that the default was registered. Meanwhile interest and, for most of the time, charges continued to be applied to Mr P's account.

Even if this reasoning is accepted, I appreciate it's then debatable what date the default should be treated as effective from (which in normal circumstances would be the date of the decision to register it).

I've given this careful consideration. I've kept in mind that while the effective date of the default is important, I'm also deciding the cut-off date for further interest and charges, and that the issue of overall fairness is engaged. Like the adjudicator, I think it's relevant to consider the history of the arrears on the account. Bearing this in mind and exercising my judgement, I've decided that the start of June 2018, as the adjudicator also recommended, is a fair result.

I too have concluded NewDay could reasonably offer Mr P the credit limit increases in 2013 and 2014. I've nothing to add to the reasons the adjudicator gave.

my final decision

I require NewDay Ltd to adjust Mr P's account and the balance owing under it so that all interest and charges added to it after 31 May 2018 are treated as if they hadn't been added.

NewDay Ltd should also amend Mr P's credit file and notify the relevant agencies that the default date was 1 June 2018.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 23 February 2020.

Roger Yeomans
ombudsman