

complaint

Mrs P complains that NewDay Limited has recorded a default on her credit file.

background

Mrs P has a store card account with NewDay. She contacted NewDay in April 2017 about health and financial issues and it refunded two charges and placed a hold on her account so all interest, charges and collection activity was stopped. But Mrs P became aware that it had recorded a default on her credit file. She complained to NewDay but wasn't satisfied with its response so complained to this service.

The investigator didn't recommend that this complaint should be upheld. NewDay had sent letters to Mrs P about the status of her account and the default that it was recording which were addressed correctly and were sent out in line with the terms and conditions of the account. So he couldn't say that it hadn't done enough to make Mrs P aware of the status of her account or the default.

Mrs P has asked for her complaint to be considered by an ombudsman. She says, in summary, that NewDay did the opposite of what it told her it would do and she asks why it would have a specialised team to help with this issue if its aim was always to default her account. And she says that she would've been better left making smaller payments (or even missing them) because NewDay would've contacted her by phone or email – yet it sent letters about the default which she never received and it has no way of proving they were sent.

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 sympathise with Mrs P for her daughter's health issues and the financial and other difficulties that Mrs P has experienced.

It's clear that Mrs P contacted NewDay about those issues in April 2017. And it agreed to refund two charges and place a hold on the account so all interest, charges and collection activity was stopped – and it said that her account would be passed to its specialist customer care team. NewDay says that that team sent correspondence to Mrs P requesting medical evidence. And it continued to send monthly statements to Mrs P which showed arrears on her account and she was also sent notices of arrears. Mrs P was sent a notice of default in May 2017 but Mrs P didn't make any payment to NewDay. And it sent Mrs P a letter in September 2017 notifying her that a default had been recorded on her credit file.

All of those statements, notices and letters were sent to Mrs P at her correct address – which is the same as the address that she's notified to this service. I consider it to be more likely than not that those letters were sent to Mrs P. And even if they weren't received by her, I consider that NewDay discharged its responsibility to give the relevant notices to Mrs P by sending that correspondence to her. And I'm not persuaded that it's likely that none of that properly addressed correspondence would've been received by Mrs P.

Mrs P hadn't made any payments to NewDay – and I'm not persuaded that there's enough evidence to show that it had agreed to suspend her payments. It had sent correspondence to her – but she hadn't responded to it – including the notice of the default. So I don't consider that it was incorrect for NewDay to record a default on Mrs P's credit file. That

clearly isn't what Mrs P expected or wanted. But I consider that the default is a true and accurate record of Mrs P's payment history. So I find that it wouldn't be fair or reasonable for me to require NewDay to remove the default from her credit file – or to take any other action in response to her complaint. But NewDay is required to respond positively and sympathetically to any financial difficulties that Mrs P is experiencing. And I note that, in October 2017, it decided to charge off the account and it says that it won't be actively pursuing the debt for the time being (but it could be sold to a third party in the future).

my final decision

For these reasons, my decision is that I don't uphold Mrs P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 15 December 2018.

Jarrold Hastings
ombudsman