

complaint

Mr M complains that NewDay Limited ("NDL") has retained late payment fees on his store card account, when he believed NDL had told him that they would be removed. He is also unhappy that NDL had applied adverse information to his credit file whilst the removal of the late payment fees was being looked into. As a result, his credit rating has worsened. Mr M also complained that NDL had not responded to his complaint promptly.

background

Mr M has previously complained to this service about NDL applying late payment fees and interest to his store card account. In that case, the adjudicator ("A") recommended that NDL apply a refund of £140.82 to his account and pay him £75 compensation. Whilst that complaint was ongoing, Mr M said that he did not make payments to his account as he did not know how much was due. He said that he phoned NDL in December 2014. In that call, NDL told him that all the late payment fees would be refunded, and that he only owed about £25 to it, although this had to be checked with NDL's complaints department. But, Mr M then heard no further about this. NDL then said that it had no record that it had promised to refund the late payment fees, and it was unable to obtain a copy of the call recording in which Mr M said the promise had been made. Mr M was also unhappy that his credit score had dropped from 987 to 726 due to the adverse entries applied to his credit file by NDL.

The adjudicator did not recommend that the complaint should be upheld. She was satisfied that A had told Mr M on 21 November 2014 that fees would continue to be applied to his account despite the investigation into his initial complaint. Four days later, A told Mr M that the outstanding balance on his account was £147.52, following the refund of charges in settlement of his complaint. So, the adjudicator concluded that Mr M should have known that he had an outstanding balance on his account. Because Mr M had not made monthly payments to the account, this resulted in late payment fees being applied to his account. The adjudicator said that she had not seen any evidence to confirm that all the fees would be refunded. So, she did not consider that she could request NDL to amend Mr M's credit file and apply further refunds to the account.

The adjudicator also said that NDL was required to apply true and accurate information to Mr M's credit file to reflect how his account had been maintained. Having seen Mr M's credit report, she was also not persuaded that the reduction in Mr M's credit score was solely due to NDL's actions.

Mr M disagreed and responded to say, in summary, that it was convenient for NDL to say that no call recording was available. He also said that he was unaware of the outstanding balance on his account as it took a long time to get through to NDL whenever he rang to discuss the account. He also believed that his credit rating had reduced solely due to the adverse information recorded by NDL.

The adjudicator responded by sending Mr M copies of the emails in which A had told Mr M of the balance outstanding on the account, and informed him that interest and charges would not be frozen during the course of the investigation of his first complaint.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I note that Mr M believes that he was told on the phone by NDL that all his late payment fees would be refunded. He said in his email to this service on 1 April 2015 that he was told this during a call with NDL on 23 January 2015. I have seen a reference to this call in NDL's customer contact notes. On that date, the notes say that Mr M phoned NDL for an update on his complaint which he had made on 20 January 2015. But I note that the email which Mr M sent to NDL about his complaint on 20 January 2015 refers to the promise of a fee refund made before that date. Mr M said in that email:-

"Then, the adviser spent ages working out the late payment fees that I've been promised a refund on. But then decided she was unable to process anything and that the complaints department would have to handle this".

So, it would appear that the fee refund promise Mr M referred to was made before 20 January 2015, and not on 23 January 2015 as Mr M had told this service on 1 April 2015.

It is also clear to me from Mr M's email that the adviser he spoke to referred to the matter having to be handled by the complaints' department. This would indicate that whatever the adviser had told Mr M, needed to be confirmed. I also note that NDL's final response letter said that the fees applied to Mr M's account could not be waived and referred to previous correspondence where it had said this. A had also written to Mr M in November 2014 to tell him that charges would not be frozen. I have also read NDL's contact notes and cannot see any reference to the promise of a refund in those notes. As I have seen no evidence of NDL's promise to remove the fees, on balance, I cannot safely conclude that Mr M was promised a refund of all the fees.

Mr M also complained that he did not receive an answer to his complaint. But I have seen copies of NDL's letters acknowledging the complaint on 27 January 2015 and providing a final response to the complaint on 12 February 2015. So, I am satisfied that NDL dealt with Mr M's complaint promptly. Although NDL's letters were correctly addressed to Mr M's address, he said that he did not receive these. I also note that Mr M complained in March 2015 that he had not received account statements. But I cannot hold NDL responsible for the failures of the postal system.

I also note that Mr M said that he did not know how much he had to pay NDL. But I can see that A told him how much was due in November 2014 by email. I can also see from NDL's contact notes that Mr M spoke to NDL on a number of occasions, so he could have checked the balance due and the required minimum payment during those calls.

As Mr M did not make his contractual monthly payments, NDL was obliged to tell the credit reference agencies ("CRAs") about this. Mr M said that NDL was responsible for the fall in his credit score from 987 to 726. He has sent this service a credit search showing a credit score of 817 in April 2015. As the search is not detailed, I cannot safely conclude that NDL's entries are responsible for the lower than expected score. But, I also cannot say that NDL acted inappropriately in recording the adverse entries with the CRAs due to Mr M's missed payments.

So, having carefully considered the circumstances of this complaint, on balance, I do not consider that NDL has acted inappropriately. It follows that I do not find that NDL has done anything wrong in rejecting Mr M's complaint.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr M to accept or reject my decision before 20 July 2015.

Roslyn Rawson
ombudsman