

## **complaint**

Mr A says NewDay Ltd was unhelpful when he was trying to track down two refunds. And whilst he was trying to resolve this, it applied charges to his account and reported adverse data to the credit reference agencies.

## **background**

Whilst Mr A was trying to find out where his refunds were he stopped paying his credit card bill. NewDay then applied charges to his account and reported the late payments to the agencies. This, and the related collections activity, caused Mr A significant anxiety. He asks for the adverse data to be removed as he was always willing to pay what he owed. He wants the business to consider his physical and mental disabilities. And says NewDay couldn't find his refunds, this was only resolved once we became involved.

NewDay said whilst it now agreed to refund the charges, it advised Mr A when he called about the refunds that he must keep making the minimum payment. And as he failed to do so, the adverse data was an accurate reflection of what happened. It also said it hadn't previously been made aware of Mr A's personal circumstances.

Our adjudicator said, in summary:

- NewDay made no error with regards to the refunds. An incorrect date was given by the third party, but he was satisfied this part of the complaint was now resolved and he couldn't uphold it;
- he understood Mr A had been disputing what he owed because of the missing refunds but explained this didn't mean he was entitled to make no repayment;
- NewDay's collections letters and calls were reasonable - as it hadn't been told about Mr A's circumstances it couldn't have considered if reasonable adjustments needed to be made;
- but its offer to now only communicate by letter is reasonable, given its email system isn't secure enough - and once the account is up-to-date there would be no collections activity; but
- he couldn't, based on the evidence, order NewDay to remove the late payment information from Mr A's file.

Mr A subsequently repaid his account in full and NewDay removed a small amount of remaining interest on 16 June 2016. The case was passed to me as Mr A remained unhappy that NewDay refused to remove the adverse date on his credit file.

## **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 done so, I've reached the same conclusion as the adjudicator and for the same reasons.

I know Mr A feels very strongly that the adverse data is unfair, and like a punishment, but I've found no compelling reason to change the proposed outcome.

There is no evidence of any bank error. I think NewDay made clear to Mr A that he was obliged, under the terms of his account, to maintain payment. I'm sorry that he's found it so distressing, but I can't fairly tell NewDay to change what it's reported. It was reasonable to expect Mr A to continue to make at least the minimum monthly repayment. As we've said Mr A can add a notice of correction to his file at the three credit reference agencies.

I note Mr A hasn't decided yet if he will close the account. If he decides not to, I would urge NewDay to ensure all parts of its business are aware of its offer to only contact Mr A by post.

### **my final decision**

My decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 8 August 2016.

Rebecca Connelley  
**ombudsman**