

## **The complaint**

Mr C complains that NewDay Ltd recorded an incorrect default date on his credit file.

## **What happened**

Mr C held an Aqua credit card account with NewDay. In September 2017 he went into debt management plan.

Mr C later discovered that NewDay recorded that the account defaulted on 31 August 2018. He complained to NewDay and said that all of his other creditors recorded the default date as October 2017 when he went into the debt management plan.

In its final response dated 19 July 2023, NewDay said it was upholding the complaint and offered compensation of £30. It also said it had requested to amend Mr C's credit file to reflect the default date from October 2017.

NewDay wrote again to Mr C on 25 July 2023. It said it had looked into amending the default date but said that as his account was sold to a third party on 31 August 2018, it had removed all of its information from his credit file. It said that as the third party were owners of the debt, they were also responsible for reporting the account to the credit reference agencies.

Mr C continued with his complaint.

In a further final response dated 8 December 2023, NewDay said it was upholding the complaint and offered compensation of £50. It said it had reviewed Mr C's account and had found that when the repayment plan was set up on 28 September 2017, because the repayment offer was less than 1% of the outstanding balance, arrears continued to build on the account. NewDay sent Mr C a default notice letter on 19 December 2017 requesting a payment of £83.52 by 9 January 2018. NewDay sent a letter on 3 March 2018 advising Mr C that his account was terminated and that the full balance was due. NewDay continued to receive payments via the debt management plan. It sent a letter to Mr C on 2 June 2018 advising him of its intention to register a default after the expiry of 28 days. NewDay said the account was defaulted on 31 August 2018 and that accordingly, 31 August 2018 was correctly reflecting on his credit file as the default date.

Mr C wasn't happy with the response and brought his complaint to this service.

Our investigator upheld the complaint. He said a default notice had been issued to Mr C in December 2017 and the arrears weren't cleared, so a default should've been registered after that. The investigator said NewDay should pay compensation of £150 to Mr C for the inconvenience of having the default remain on his credit file for longer than it should've done.

NewDay didn't agree. It said there were no arrears when Mr C entered into the debt management plan in September 2017 and therefore no grounds to apply a default at this stage. It said that by December 2017 the account was three months in arrears, so a default notice was sent on 19 December 2017. NewDay said that Mr C made payments of £32.34 in November and December 2017, January 2018 and February 2018, which reduced the

arrears but didn't fully clear them. NewDay said it issued a termination notice on 3 March 2018 because 60 days of arrears had accrued, and the terms of the credit agreement had been broken. It said that Mr C had made payments of £32.34 in April and May 2018 which again reduced the arrears but didn't clear them. NewDay said that by May 2018 there were six months of arrears, so it issued a notice of intention to register a default on 2 June 2018. NewDay said it received payments of £32.34 in June, July and August 2018 but that by August 2018 there were 8 months of arrears, so a default was recorded on 31 August 2018. NewDay said it remained of the opinion that the default was recorded on the correct date. It said it wasn't prepared to pay Mr C compensation of £150.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've reviewed the account. I can see that Mr C (via StepChange) made a repayment offer in September 2017 and a repayment plan was set up on the account on 28 September 2017.

The sum offered under the repayment plan was less than the minimum payment due on the account each month. So even though Mr C was making payments each month, arrears continued to accrue.

By December 2017, three monthly minimum payments were due. Two of these were in arrears and one was due. The minimum payment due in December 2017 wasn't received which meant that there were three months of arrears on the account. NewDay issued a default notice on 19 December 2017.

Although Mr C continued to make payments under the repayment plan, he didn't clear the arrears in response to the default notice. In the circumstances, I think NewDay should've recorded the default on Mr C's credit file in January 2018. I say this because the relevant guidance from the Information Commissioners Office says that lenders should record a default on a consumer's credit file once an account is between three and six months in arrears. And in this case, NewDay had issued a default notice once the account had reached three months in arrears which Mr C didn't comply with.

The consequence of NewDay not recording the default in January 2018, and in not recording it until August 2018, is that Mr C will have the default on his credit file for around 8 months longer than he should do. The default should have been recorded in January 2018 and removed in January 2024. This has impacted on Mr C by causing him distress and inconvenience and I think its fair to ask NewDay to pay compensation for this.

### **Putting things right**

To put things right, NewDay Ltd should remove the default and pay compensation of £150 total to Mr C.

### **My final decision**

My final decision is that I uphold the complaint. NewDay Ltd should remove the default and pay compensation of £150 total to Mr C.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 18 June 2024.

Emma Davy  
**Ombudsman**