

The complaint

Mr E complains about interest applied to his account by NewDay Ltd trading as AO Finance (“NewDay”). He says no interest should have been charged because he was on an interest-free promotion.

What happened

In 2021, Mr E opened a credit account. The credit was provided by NewDay and the credit agreement is between Mr E and NewDay. It was set up through an intermediary (which I’ll call A) when Mr E made a purchase from A. The purchase was funded by way of an instalment plan with a promotional interest rate of 0%. Under the plan, Mr E agreed to pay a fixed amount each month for 36 months. Because of the promotion, he didn’t have to pay any interest and the balance would be paid off by the end of the 36 months.

Mr E says he set up a Direct Debit for the monthly payments when he made the purchase. But NewDay said it didn’t receive the first payment. Mr E says he provided his bank details again and the Direct Debit was set up in February 2021. Since then, it has been collected successfully every month.

But, towards the end of last year, Mr E noticed that the outstanding balance on his account was higher than he was expecting. He found out that he had been charged interest each month. So, his monthly payments hadn’t been reducing the balance as quickly as he was expecting and there was still a large amount outstanding. Mr E made a complaint, saying that his agreement was for interest-free instalments. He said he hadn’t been told he was being charged interest.

NewDay didn’t uphold the complaint. It said that, because Mr E had missed the first payment under the plan, his promotional offer had been cancelled. It accepted that Mr E had set up a Direct Debit in February 2021. But it said this didn’t mean the instalment plan was reinstated. NewDay said it had written to Mr E in February 2021 and told him that the promotion had been cancelled and interest would be charged at the standard rate.

Mr E wasn’t happy with NewDay’s response and brought the complaint to this service. He said he had given his bank details to A when he made the purchase and it’s not his fault if these weren’t passed to NewDay to set up a Direct Debit in time for the first instalment. He said he only made the purchase because of the interest-free deal but is now struggling financially because of the interest. He would like NewDay to stop charging interest and deduct the interest he has paid to date from the outstanding balance.

Our Investigator didn’t think NewDay needed to do anything here. But Mr E didn’t agree and asked for the complaint to be reviewed by an Ombudsman.

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.

The terms and conditions of Mr E's account say that NewDay will cancel any promotional offers if he fails to make the contractual minimum payment. They also say it will cancel any instalment plans and move any instalment plan balances into his standard purchase balance.

Mr E's account was opened in January 2021. The first payment under the instalment plan was due by 15 February 2021. It's not disputed that the payment wasn't made on time. So, under the terms of the agreement, NewDay was entitled to cancel the 0% promotion and start charging interest at the standard rate.

But Mr E says that a Direct Debit should have been set up before the first payment was due. He says he gave his account details to A at the time of the purchase, for this reason. NewDay says it didn't receive any Direct Debit information from A. It says it doesn't usually set up a Direct Debit during the account opening process. Its usual process is to send an email to new customers inviting them to register for its Online Account Manager service where they can set up a Direct Debit. From the evidence I've seen, I'm satisfied that NewDay didn't receive instructions to set up a Direct Debit when the account was opened.

Due to the amount of time which has passed, NewDay no longer has a copy of the email which was sent to Mr E when his account was opened. It has provided a template of the standard email it sends to new customers. I have no reason to doubt that this was sent to Mr E, as I'm satisfied that A provided an email address to NewDay. I think Mr E ought reasonably to have realised when he received the email that the Direct Debit wasn't in place. But, even if he didn't receive the email, or thought the standard wording didn't apply to him, I still think he ought to have realised that the Direct Debit wasn't in place. That's because he hadn't received a letter confirming it or a Direct Debit guarantee. And his first statement (which was issued a few days after the account was opened) included a message about setting up a Direct Debit. I think it was clear from this that no Direct Debit was in place.

Mr E says it's not his fault if A didn't pass on the details to NewDay correctly or promptly. He also says that A didn't make it clear that the credit was being provided by NewDay. I can understand his frustration. But I'm not looking at the actions of A here. Mr E may wish to raise a separate complaint with A. But, in deciding this complaint, I'm only looking at what NewDay did and whether it acted fairly and reasonably.

The evidence I've seen shows that no Direct Debit information was passed on by A and that NewDays' approach is to set up Direct Debits direct with customers, not through A. I don't think NewDay could have set up a Direct Debit at the outset because it didn't have the information it needed to do so. Even if Mr E thought the Direct Debit should have been set up, I think the information available to him showed that it hadn't been set up. So, I think it would have been reasonable for him to contact NewDay to check.

Mr E was told that the first payment had been missed. He set up a Direct Debit with NewDay on 23 February 2021. This was in time for the next payment, which was collected successfully. But, by this stage, NewDay had already cancelled Mr E's promotional rate and moved his balance on to the standard rate of interest, in line with the terms and conditions.

Mr E says he wasn't told that NewDay was charging interest. But I find that it did tell him. NewDay wrote to Mr E in February 2021 and told him that his promotional offer had been cancelled because he had breached the agreement. The letter said that interest was now being charged and that it would cost him more to pay off his outstanding balance.

Mr E's February statement also confirmed that interest would be charged going forwards. It said that his account had been suspended because he had missed last month's minimum payment. A notice on the front page of the statement said "*Failing to make your minimum*

payment can mean you have broken the terms of this credit agreement and could result in us taking legal action against you. It could lead to your having to pay additional costs and make it more difficult for you to obtain credit in the future. Any promotional offers and instalment plans (excluding any PayDown plans where applicable) have been cancelled. Standard rates now apply. Please repay the arrears immediately. This is not included in your contractual minimum payment.”

No interest was applied on the February statement, but an estimated interest figure for next month was provided. The instalment plan was no longer shown on the statement and Mr E's purchase was now shown as a standard rate purchase. Taking all these things into account, I think it was clear that NewDay would be charging interest from that point onwards.

Mr E says it's not fair that NewDay has charged him interest. He only missed the first payment and he doesn't think that was his fault. I can understand his point of view. I don't think it was NewDay's fault that the Direct Debit wasn't set up in time for the first payment. But there was clearly confusion on Mr E's part about the Direct Debit at the outset. In some circumstances, I understand that NewDay may have been able to reinstate the original instalment plan. I've thought carefully about whether it should do that here, or make some form of adjustment or compensation to Mr E. But I'm afraid I don't think it needs to do so in the circumstances here.

That's because I'm satisfied it told Mr E at the time that interest was going to be charged. Even if Mr E didn't see the initial letters or messages on his February statement, every statement from March 2021 onwards included interest. So, I think it should have been clear to Mr E that interest was being charged and was affecting his balance.

It's reasonable to expect customers to review their statements regularly so that they have oversight of their accounts and can manage them effectively. I can understand that some customers may not review statements every month. But Mr E didn't raise the issue about the interest until around October 2023. By that stage, the account had been running for more than two years and NewDay had been producing statements every month. I would have expected Mr E to check his statements or his balance within that time and certainly much earlier than this, particularly after the problem he'd had with the Direct Debit. In the circumstances, I don't think NewDay's response to the complaint was unreasonable.

I know Mr E feels strongly about this and I'm sorry to disappoint him. But, on balance, I don't think NewDay acted unfairly here so I'm not going to ask it to do anything.

My final decision

For the reasons above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 19 June 2024.

Katy Kidd
Ombudsman