

The complaint

Mr B complains that NewDay Ltd trading as Marbles Card unfairly reported missed payments on the credit card account that he holds with it to the credit reference agencies.

What happened

In August 2021 Mr B opened a credit card account with NewDay. The card had a credit limit of £450. In October 2021 Mr B exceeded the credit limit and incurred a £12 charge. He contacted NewDay by telephone and spoke to an agent about how he had mistakenly exceeded the limit. He also said he was struggling financially and was experiencing personal difficulties.

The agent agreed to remove the £12 charge for exceeding the credit limit and to put a hold on the account for two months meaning no interest or charges would be added to the account in that time. Mr B agreed to make reduced payments of £5.00 per month from mid-October and said he would then be able to review his position in January 2022.

Following the call, a letter was sent to Mr B by NewDay confirming that the hold would expire in January 2022. The letter also said that before the January 2022 date there would be no collection activity on the account. The letter asked Mr B that if his circumstances hadn't changed by January he should get back in touch. It also advised that by making reduced or no payments on the account this could impact on Mr B's credit rating and could mean a default would be registered.

In December 2021 Mr B's mental health had deteriorated to the point that he required compulsory hospitalisation for treatment. While in hospital, Mr B explains he wasn't able to contact NewDay and explain his circumstances. He was discharged in February 2022. As Mr B made no payments on the account from October 2021 a default notice was sent to him in December 2021 and the account was later defaulted and terminated. Subsequently NewDay has accepted a partial settlement of the account.

Mr B was unhappy when he subsequently discovered that NewDay had reported two missing payments on the account for October and November 2021 to the credit reference agencies. He said this was unfair because he had been unwell at the time. He complained to NewDay.

NewDay said that it was under an obligation to report accurate information to the credit reference agencies as to how a consumer had managed their credit account. It said that it hadn't made an error in the way it had administered his account and it didn't uphold his complaint.

Mr B was unhappy with NewDay's response and complained to this service. He said that he had explained what had happened to NewDay but it had declined to remove the missed payments from his credit file. He said he didn't think this was fair.

Our investigator didn't recommend Mr B's complaint should be upheld. He said he had listened to the call between Mr B and NewDay in October 2021, and he hadn't formed the

impression that Mr B had been unable to take in what the agent had said to him, nor did he think Mr B wouldn't have understood the letter that followed from NewDay and which had set out the possible consequences of not making payments.

Our investigator said he also thought that although Mr B had been hospitalised in December 2021, that wasn't the cause of Mr B's account having been defaulted as he had already missed payments in October and November 2021. Our investigator said he thought that even if Mr B hadn't been hospitalised that he still wouldn't have been able to make the payment needed to stop the default action being taken on the account.

Mr B didn't agree with our investigator's view. He said he had been unwell in October 2021, and he wasn't able to recall the conversation he had with the agent at that time. He said he also hadn't received the letter from NewDay. Mr B queried why the default notice had been sent in December when the letter sent in October 2021 had set out no collection action would be taken until January 2022. Mr B said that when he is well, he is able to manage his financial affairs properly as could be seen from his credit file.

As the parties hadn't been able to reach an agreement the complaint was passed to me. I issued a provisional decision along the following lines.

I was sorry to hear that Mr B had had a difficult time with his mental health. I'd seen that he has an enduring mental health condition which will have periods in remission but can also relapse, particularly at times of stress. Mr B had been experiencing a difficult time prior to October 2021.

I'd also listened to the call Mr B made to NewDay and I thought Mr B was showing symptoms of relapse, his speech was pressured, and he had often found it difficult to follow what was being said to him about why he had exceeded the credit limit of his account. I was aware that Mr B had required compulsory hospitalisation by December 2021 which I thought showed this had been a significant relapse for him. He had also remained in hospital for two months which I thought was also evidence of the severity of Mr B's deterioration. I thought that a relapse to this degree was more likely than not to have taken several weeks to develop. So, I was satisfied that in October 2021 Mr B would have been unwell and that this would have had an impact on his decision making and understanding at that time. I accepted what Mr B had said about not being able to recall that he had spoken with NewDay about his account in October 2021.

I didn't know why Mr B hadn't received NewDay's letter about the hold on his account, it had been properly addressed. However, I thought it was likely that even if Mr B had seen it, he might not have understood it properly due to his deteriorating mental health at that time.

Mr B had informed NewDay that he would be making a £5 payment towards his account in October and November 2021 but hadn't done so. But as set out above, I didn't think he recalled having entered into that payment plan. NewDay had then decided to take collection action on the account in December rather than wait to January 2022, but I didn't think this had been unreasonable. Mr B hadn't made the payments as agreed and hadn't been in touch. I would have expected a credit company to take action after two months of missed payments. I'd seen that the default notice had been sent to Mr B when he was an inpatient, so he hadn't been aware of it and wouldn't have been able to make any arrangements to clear the outstanding amount.

However, even if Mr B had received the default notice, either then or after his discharge, I hadn't seen any evidence that he would have been able to clear the outstanding arrears in a lump sum to prevent the default occurring. I also thought it was important to note that defaulting the account had protected Mr B from accruing additional debt as interest and fees

were no longer charged. I didn't think terminating this account would have been detrimental to him. Mr B was struggling with his priority bills prior to admission and would have needed to concentrate on his health following his discharge. So even if the default notice hadn't been actioned in January 2022, I thought it was more likely than not that, given Mr B's circumstances, this account would have been terminated due to Mr B not being able to pay in line with the credit card's term and conditions.

NewDay said that it was obliged to report accurate information about the management of a credit account to the credit reference agencies. And while I agreed with that, there was also a requirement that what it reported was fair. Here, I didn't think it was fair to report Mr B's management of this account given the circumstances. Mr B had been mentally unwell and significantly so in the period October 2021 up to his discharge in February 2022. I didn't think it was fair to consider him responsible for not managing the credit card account in line with its terms and conditions during that time. I'd seen that Mr B had been able to resume some payments on the account once he was home and that NewDay had agreed for him to partially settle the account.

So, given the reasons for Mr B's missed payments I thought it would be reasonable and fair for NewDay to remove the information as to the missed payments from this account. However, I didn't think that compensation was due to Mr B for NewDay having reported it as I hadn't seen any evidence that this adverse information had had a significant impact on him although I accepted it would have been frustrating for him not having the information removed when he had requested. I'd also seen that the missed payments had been reported several months before Mr B contacted NewDay to ask it to remove them.

For the reasons given above, I intended to uphold Mr B's complaint and asked NewDay to remove the missed payments from this account's record with the credit reference agencies.

Both Mr B and NewDay have said they agree with my provisional view.

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.

Although neither party has asked me to reconsider my provisional decision, I have still reviewed the evidence and the conclusions I reached. And having done so, I haven't changed my mind. I'm satisfied that due to Mr B's circumstances, which I have set out above, it was unfair for NewDay to report the missed payments on his credit card account to the credit reference agencies.

As I also explained above, I don't think compensation is warranted here. I appreciate that dealing with this will have caused Mr B some stress and frustration, but I haven't seen that the inclusion of the reported missed payments on his credit file has caused him any unfair disadvantage. Mr B says he agrees with my view as to what would be a fair outcome.

I'm therefore upholding his complaint.

Putting things right

I'm asking NewDay to remove the missed payments from Mr B's credit card account with the credit reference agencies.

My final decision

I'm upholding Mr B's complaint. I'm asking NewDay Ltd trading as Marbles Card to remove the information about the missed payments that it had reported to the credit reference agencies in respect of his credit card account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 12 August 2024.

Jocelyn Griffith
Ombudsman