

The complaint

Mr C is unhappy that NewDay Ltd lent to him irresponsibly. He wants NewDay Ltd to refund all interest and charges he has paid together with 8% simple interest.

What happened

Mr C was accepted for a credit card by NewDay Ltd in August 2015 with a limit of £250. The following credit limit increases were then applied:

Date	November 2015	March 2016	March 2017	August 2017
Credit limit	£900	£1,150	£2,050	£3,150

Mr C complained to NewDay Ltd, he said they shouldn't have increased his credit limit between November 2015 and August 2017 because he had only been making minimum payments towards his account. Mr C said NewDay Ltd didn't carry out sufficient checks otherwise they would've seen he had late payment markers and defaults on his credit file. He said they also should've picked up that he had taken out other credit including payday loans and catalogue accounts with arrears. Mr C said, in order to cover the costs of this credit account, he became reliant on payday loans to meet his everyday costs.

NewDay Ltd responded to the complaint and said, when making a decision to offer credit, they consider information a consumer supplies on the application and also information from credit reference agencies. They said they regularly review how consumers are using their card along with how they are managing their other credit commitments. They said their records showed there weren't any arrears, defaults or payday loans appearing on Mr C's credit profile at the time of the increases. NewDay Ltd didn't uphold the complaint.

Our investigator looked into things for Mr C. NewDay Ltd told us a letter was sent to Mr C prior to each increase giving him the option to opt out, which he didn't. NewDay Ltd said the account was paid in full and closed in May 2019 but, while it was active, they weren't notified of any financial difficulties.

Our investigator felt NewDay Ltd hadn't acted unfairly or unreasonably in increasing Mr C's credit limit on all four occasions. Mr C disagreed so the matter has come to me for a decision.

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.

Having done so, I've decided not to uphold the complaint. I understand Mr C will be disappointed by this but I'll explain why I have made this decision.

We've set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

NewDay Ltd needed to take reasonable steps to ensure that they didn't lend irresponsibly. In practice this means that they should've carried out proportionate checks to make sure that Mr C could repay the credit in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure.

The first point I've addressed is whether I think NewDay Ltd carried out reasonable and proportionate checks. Section 5 of the Consumer Credit (CONC) sourcebook, in place at the time, outline that the assessment that NewDay Ltd needed to complete should've been dependent on, and proportionate to, a number of factors – including the amount and cost of the credit and the consumer's borrowing history. CONC also provides guidance on the sources of information NewDay Ltd may have wanted to consider as part of making a proportionate assessment. It then gives examples of factors a firm must consider and refers to whether the information the firm has is sufficient and whether to obtain additional information from the customer and any other sources of information to use.

NewDay Ltd is free to decide how to set its lending criteria but they should complete proportionate checks to ensure borrowing is sustainable. In this case, I can see that NewDay Ltd, when applying the credit limit increases, considered information including how Mr C was performing on this account, any financial difficulty or affordability indicators and whether there were arrears reported by any other external creditor. Then in March 2016, which applies to the three later increases, they also started considering whether there were any active payday loans. I think the checks carried out by NewDay Ltd were reasonable and proportionate as they took into account a number of factors. And, the checks carried out were the type I would reasonably expect because they would help NewDay Ltd not only to build a picture of Mr C's financial situation, but also to assist in determining whether he could repay the credit in a sustainable way.

The next point I've considered is whether NewDay Ltd made a fair lending decision bearing in mind the information gathered and what they knew about Mr C's circumstances. To help decide this, I've looked at how Mr C was handling his account. The credit limit increases were made between November 2015 to August 2017. I can see regular payments were made with no late fees being charged in this period. The monthly payments being made were also higher than the interest payment for that month. This shows that the payments were going towards the capital and not just the monthly interest which had accrued.

When the credit limit increases were applied, I can't see there's a pattern here showing Mr C using the additional facility immediately. Where a consumer starts using the extra facility straightaway, that might be taken with other factors to suggest a strong reliance on the extra borrowing to service other debts or to generally make ends meet. That however isn't the case here. Additionally, I can't see that Mr C was consistently spending excessively or in a manner which would've led NewDay Ltd to have any concerns. On occasions when Mr C's monthly retail spend was high, this was followed up by a higher monthly payment to ensure his account was well managed. For example, in July 2016, Mr C's retail spend on his card was over £150 but the following month he paid £250 towards the balance. And again, in July 2017, his retail spend was over £300 but the following month he made a payment of £560. I think this demonstrates Mr C was managing his account well and in a manner which reasonably led to NewDay Ltd increasing his credit limit.

Generally, Mr C managed his account within his credit limit. There are three occasions between November 2015 to August 2017 where he went over his limit and an over-limit fee was charged. On these occasions, however, Mr C had gone over his limit by small amounts, the highest being £22.12, and on all three occasions Mr C brought his account back below

his limit the following month. So, I don't think this alone is a factor which ought reasonably to have led NewDay Ltd to not offer the credit limit increases.

I've also looked at other factors which NewDay Ltd took into account at the point the credit increases were applied. NewDay Ltd received information from credit reference agencies which showed Mr C didn't have any payday loans or any arrears with another credit provider. Borrowing from a number of other lenders in the form of payday loans and evidence of numerous arrears can point towards financial difficulty. This might also demonstrate that a consumer won't be able to repay any further borrowing without undue difficulty, while being able to meet other commitments and without having to borrow further. So, it's important to take these factors into account when deciding whether a consumer can sustainably repay any credit. I think NewDay Ltd have acted reasonably in taking this information into consideration and have acted fairly in deciding to increase the credit limits.

I can also see that on each occasion a credit limit increase was applied, NewDay Ltd wrote to Mr C to offer the increased limit. They gave him the opportunity to think about the increase and whether to accept it. The letters said the new credit limit would be available to Mr C no later than 40 days from the date of the letters. But if he wanted the increase immediately, then he can contact NewDay Ltd. They also gave Mr C an option to 'opt out' if he didn't want the limit increased. NewDay Ltd say that, on three occasions out of the four, Mr C contacted them in response to say that he wanted the limit increased. And, on the other occasion, they didn't hear back from Mr C to say he didn't want the limit increased so it was automatically increased. So, bearing this in mind and without any information to suggest that the increases would be unaffordable, it's difficult for me to say that NewDay Ltd should have done anything differently here. Whilst the increases did mean that the limit rose considerably from the point the card was taken out, NewDay Ltd have demonstrated that they carried out proportionate checks and there was nothing else to suggest Mr C might have struggled to maintain the borrowing.

I note Mr C says that his credit file shows adverse information which should've led NewDay Ltd to not offer the credit limit increases. But nothing I've seen suggests NewDay Ltd needed to make any checks beyond those they carried out. The checks carried out by a lender need to be reasonable and proportionate. And, what constitutes reasonable and proportionate in one case might not necessarily satisfy the test in another case. So, in some cases, if there is evidence to suggest a lender should've had wider concerns, then we might say they needed to carry out further checks and perhaps have asked for a credit file. In this case, I haven't seen any information which I think should've led NewDay Ltd to ask for Mr C's credit file or even request any further information beyond that which they did.

Mr C has referred to other cases which our service has looked into for him, these being cases against other firms. Mr C says a number of these were upheld and we asked the firms to remove information from his credit file. Mr C says this is relevant to this complaint because his credit file needs to be considered in its unaltered form to determine what NewDay Ltd would've seen had it considered his credit file at the time of the increases. I've taken this into account but this doesn't change my view as I've concluded that it wasn't reasonable or proportionate for NewDay Ltd to ask for Mr C's credit file.

In summary, I don't uphold Mr C's complaint in this matter as I feel NewDay Ltd carried out reasonable checks and made a fair decision to lend.

My final decision

For the reasons I have given, it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 15 February 2021.

Paviter Dhaddy
Ombudsman