

## **The complaint**

Mr J complains that NewDay Ltd has refused to lower the interest rate on his credit card following a letter it sent him concerning persistent debt.

## **What happened**

Mr J opened his credit card account with NewDay in June 2016.

In May 2020 NewDay wrote to Mr J to explain it had noticed over the previous 18 months he had paid more in interest fees and charges than he had repaid towards the amount he borrowed. This letter was sent further to Financial Conduct Authority (FCA) rules requiring firms to support customers whose accounts are in persistent debt.

NewDay suggested Mr J make boosted payments to bring the debt down further. It explained that it would monitor his credit card account and take action required by the FCA should Mr J continue to be in persistent debt. Mr J requested that NewDay reduce his interest rate. NewDay said it would not do this as interest rates are based on his circumstances. Mr J complained to NewDay.

In its final decision NewDay said it had acted in line with FCA rules, that by asking Mr J to make higher repayments he would be charged less interest. It also said it is not required to reduce Mr J's interest rate because he asked it to.

Mr J was not satisfied with this response and brought his complaint to this service. He said he had been paying £10 to £15 more than the minimum payment but not the £80 or so that NewDay was suggesting. He said he'd told NewDay it could help him bring the balance down by reducing the interest rate, but it wouldn't do that.

Our investigator said NewDay had done what it should do when it identifies a customer is in persistent debt. She concluded that NewDay isn't obliged to reduce the interest rate on the account as per its terms and conditions. But following information provided by NewDay and Mr J she concluded that credit limit increases provided by NewDay were unaffordable and recommended it refund all the interest and charges applied to Mr J's account from 1 June 2018.

NewDay didn't agree with this view and asked for a final decision from an ombudsman. It provided several comments to which I have responded below.

## **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 shall be upholding this complaint for the following reasons.

I've read the terms and conditions of the account. It states NewDay may change interest

rates if it reasonably thinks that a customer's credit risk profile has changed - meaning that there is an increased risk that the customer might not be able to repay it. But it isn't obliged to reduce interest rates on request from a customer.

I've also looked at NewDay's responsibilities concerning customers in persistent debt and I'm satisfied it did what it should have by communicating to Mr J about his situation and possible boosted payments.

In response to our investigator Mr J has told this service he's been trying to pay more than the minimum payment, but he can't afford to. He said he's been on sick income for about six years, since prior to the credit card application. Mr J said his repayments were manageable until the last credit limit increase. This increase brought his minimum payments to about £80 but NewDay suggested he pay £180 which he said he couldn't afford. He told us there had been no major changes to his income.

It does appear that at some point Mr J's credit card debt was or may have become unaffordable to the point where he is only able to make the minimum payments and unable to get out of persistent debt. In line with our approach, I've looked at whether NewDay completed reasonable and proportionate checks to satisfy itself that Mr J would be able to repay the debt in a sustainable way.

I've examined Mr J's credit card statements from September 2017 and bank statements along with information relating to credit limit increases provided by NewDay. NewDay raised Mr J's limit to £400 in March 2017. I can see in September and October Mr J exceeded and then was close to the limit of £400. NewDay raised the limit again in October to £1,000. Mr J utilised this additional credit almost straight away. From December to May 2018 he was close to the £1,000 limit. NewDay raised the limit in June to £1,800. In July and August Mr J again used the additional credit close to the limit. NewDay raised the limit further in September to £2,600. Mr J utilised the additional credit and in December and January 2019 he exceeded his limit. Throughout this period Mr J paid a little more than the minimum payment. In February NewDay raised the limit to £3,200 and Mr J made a balance transfer payment of £872. Up until March 2020 he has kept to a balance of around £2,000 making payments just above the minimum.

It appears that each time Mr J had a limit increase he was fully utilising his credit. While he was consistently making over-payments, they were only small amounts above the minimum and not enough to bring the debt down sustainably. I'm persuaded that the limit increases in June 2018, September 2018 and February 2019 were unaffordable.

NewDay said it reviewed Mr J's account and his external financial behaviour on a regular basis. It said prior to September 2018, he had incurred no late, over limit or cash advance fees, or any external accounts in arrears. It went on to say that when his limit was increased in February 2019, he again had no late fees or cash advance fees within the previous 6 months and just two over limit fees of £12.00 each. I'm not disputing NewDay performed these checks, but this does not necessarily mean the limits were affordable.

Mr J's credit limits went from £1,000 to £3,200 in a seven-month period, the last of which was immediately after two months of over limit fees. NewDay said Mr J met its lending criteria. It said although he had incurred over limit fees in December 2018 and January 2019, this was not necessarily an indicator of financial difficulty, but rather poor account management. And as no further fees of any kind were incurred on Mr J's credit card and as he was still making his contractual minimum payments, he was managing the account. I'm not persuaded this was the case. I can see Mr J was making the minimum payments, even in December and January when he was over balance. But he almost always tried to overpay

even if only by a few pounds and he made a balance transfer to a 0% interest card in February 2019, so I'm satisfied this wasn't a case of poor account management. I'm persuaded Mr J was trying to make an effort to pay down the debt, from £2,622 to £1,858 just as NewDay was increasing the credit limit further to £3,200.

NewDay said, like most other lenders, it makes the assessment based on the way the customer is managing their account with it and information that is available to it from credit reference agencies. It is incumbent on lenders to make reasonable and proportionate checks and those checks required for the initial small credit limit may not be enough to justify a much larger credit limit. I'm persuaded that in June 2018, September 2018 and February 2019 NewDay should have looked more closely at Mr J's circumstances given he was always at the limit of credit and not paying it down. And the credit limit increased quickly. Mr J said he had been on sick leave for the previous six years. I also note from his bank statements payments to two debt management companies, indicating possible debt management plans. Had NewDay done further checks e.g. income expenditure analysis, I'm persuaded it would have realised Mr J was not in a financial position to repay what he was borrowing in a sustainable way.]

### **Putting things right**

Mr J has had the benefit of using the funds, but I think it fair and reasonable for NewDay to refund all the interest and charges applied to Mr J's credit card account from 1 June 2018, to date. And apply it to the balance on the card.

Should Mr J continue to struggle to repay the debt he should contact NewDay and I would expect it to act positively and sympathetically towards him.

### **My final decision**

My final decision is that NewDay Ltd should refund all the interest and charges applied to Mr J's credit card account from 1 June 2018 to June 2021 and apply it to the balance of the card

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 14 July 2021.

Maxine Sutton  
**Ombudsman**