

The complaint

Ms L complains that NewDay Ltd acted irresponsibly in giving her a credit card without carrying out the proper checks.

What happened

In June 2018 Ms L applied for a credit card using an online comparison web site. She gave her details including name, address and date of birth. She also stated that she was a homeowner and was employed with an annual income of £20,930.

The card was approved after carrying out a credit check and Ms L was given a credit limit of £450. She made regular payments, sometimes paying more than the minimum payment required. However, in April 2019 Ms L found herself in financial difficulty and contacted a debt charity. A repayment plan was agreed for £5 per month.

In the summer of 2020 Ms L made a complaint to NewDay that it hadn't carried out appropriate checks. This was rejected. It acknowledged there were defaults showing on her credit file, but these were more than 13 months old and the card was designed for those with a poor credit history.

Ms L brought her complaint to this service where it was considered by one of our investigators who recommended it be upheld. Ms L said her self-employed income had been overstated. Our investigator noted Ms L had six defaults on her credit file with a total value of £7,300 despite her claiming she had only £200 of unsecured debt.

Our investigator said that while defaults alone shouldn't prevent someone being given a credit card it should have been clear that she was struggling to deal with debts which amounted to over a third of her self-declared income.

NewDay said Ms L had been able to make the early payments, but our investigator noted that she was using the card heavily for cash advances which allowed her to fund those payments.

Ms L's recent credit file showed that five of the six defaulted accounts present when she applied for the credit card were still there. The balances remained high and she had since defaulted on another account. It was clear she was struggling to repay her debts.

He appreciated NewDay had declined several requests from Ms L to increase her credit limit and when it was made aware she was entering a debt management plan it agreed an affordable monthly repayment plan with her. It also stopped applying interest to the account. Our investigator thought this was the appropriate response by NewDay. However, he thought it should refund all interest and charges plus interest.

NewDay didn't agree and said Ms L had opened the account by deception in using an inflated income figure. That said it hadn't simply relied on the information she had supplied but had carried out a credit check using industry approved methods which gave her a medium score.

It had taken into account her defaults and had allowed her a limit of only £450. It noted that she was able to maintain a current account pay a mortgage of £32,000 and hire purchase agreement of some £12,000 plus paying utilities. It added that the majority of her debt was the mortgage. As an instant credit provider it wasn't obliged to obtain an income and expenditure statement.

It restated the fact that she had been able to make her first four full payments and the subsequent minimum payments before getting into difficulties. It didn't believe this was a picture of someone who was foregoing necessities to pay off her debt. It said that she not paid any late fees and her interest only amounted to £113.95 She had spent £1,650.47 and it was right that she paid for goods for which she had the benefit of.

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 appreciate the arguments put forward by NewDay, but I consider I should uphold this complaint. I will explain why.

Our investigator has not suggested that Ms L doesn't pay for the goods she purchased so I believe his recommendation would not result in her avoiding paying for what she has had the benefit of.

Having looked at the application form I can see there are a number of concerns. She had a mortgage of £37,000, defaults totalling £7,300, five active accounts or cards and a gross annual income of £20,930.

The business relied on the information she supplied and a credit check which relied on industry standard algorithms. I believe this was fairly high-level automated check and I accept it is the method used by NewDay. This is in line with the way NewDay conducts its business, but on this occasion, I consider the evaluation of Ms L's financial position was such that it allowed her credit which was more than she could afford.

I appreciate she was able to maintain the early payments, but I suspect she was using one source to pay another. She was certainly using the card to withdraw significant amounts of cash which with the high interest rate she was paying this was an extremely expensive means of accessing cash.

There was no test on her self-employed income and while I appreciate she didn't give an accurate figure I believe it was reasonable to expect the business to have checked it in the light of her credit history.

I accept that this card is aimed at those with a poor credit rating and charges an interest rate of some 50% and I believe NewDay was aware of the level of risk. On balance I consider that on this occasion the checks carried out by NewDay did not reach the right conclusion.

Putting things right

NewDay should refund the interest and charges Ms L has paid.

My final decision

My final decision is that I uphold this complaint and I direct NewDay Limited to:

- Refund all the interest and charges applied to the account plus 8% simple interest.
- This should be used to clear the remaining balance.
- Continue to work with Ms L to reduce the balance by means of the agreed repayment plan.
- Close the account once the balance has been cleared.
- Remove any adverse information that may have been recorded on Ms L's credit file in relation to the account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 6 April 2021.

Ivor Graham
Ombudsman