

The complaint

Mrs C complains that NewDay Ltd (“NewDay”), trading as Fluid, were irresponsible to increase her credit card limit because she could not afford the additional credit.

What happened

The details of this complaint are well known to both parties, so I won’t repeat them again here. Instead I’ll focus on giving my reasons for my 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.

I know it will disappoint NewDay, but I agree with the investigator’s view. Please let me explain why.

Where the information I’ve got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I’ve read and considered the whole file, but I’ll concentrate my comments on what I think is relevant. If I don’t comment on any specific point it’s not because I’ve failed to take it on board and think about it but because I don’t think I need to comment on it in order to reach what I think is the right outcome.

Before agreeing to provide additional credit a business should check that the credit is affordable. The type of checks which a business should carry out should be proportionate, so (for instance) a mortgage lender will ask for bank statements and payslips, but a catalogue offering a low credit limit doesn’t have to go into so much detail.

In considering this complaint, I’ve looked at whether NewDay carried out proportionate checks, and at what information they had been given about Mrs C’s financial circumstances. The methods NewDay used to establish affordability were for them to decide but the practices and procedures they used had to be effective. And the depth of their analysis could be proportionate to the amount of money being requested.

were reasonable and proportionate checks completed at the application stage?

NewDay have explained that prior to approving Mrs C’s application for a credit card they reviewed Mrs C’s credit file and noted that the defaults were historic, none of her accounts were in arrears, there were no county court judgements registered against Mrs C and that she wasn’t engaged in any payment or debt management plans.

I think NewDay’s checks at the application stage were proportionate and reasonable and I don’t think there’s sufficient evidence to suggest Mrs C could not afford the credit that was being supplied at that point.

did NewDay carry out reasonable and proportionate checks before providing the credit limit increases?

NewDay initially offered a credit limit of £600. They increased that to £1,350 seven months later, in March 2019, and in July 2019 the limit was increased to £2,350.

NewDay say they start new credit cards with low credit limits and increase the limits based on the consumer's subsequent account performance.

I don't think their checks could fairly be seen to be reasonable or proportionate in those circumstances as they don't appear to have considered any increases in Mrs C's outgoings or her income or have considered her account performance in sufficient detail.

if NewDay had completed reasonable and proportionate checks would they have been likely to have shown Mrs C was likely not to be able to sustainably repay the credit?

Being able to sustainably repay credit is described as doing so without undue difficulty, while being able to meet other commitments and without having to borrow further.

At the point of the March 2019 credit limit increase Mrs C was already using her full limit; she'd gone over her limit twice in seven months and missed payments on three occasions. I don't think this account performance demonstrated she was able to sustainably repay the credit she was being supplied with. And I therefore don't think it was responsible for NewDay to have provided any more credit at that point.

When they increased her limit again only four months later they say they reviewed her account performance again.

But whilst Mrs C was managing to meet her minimum payments her overall indebtedness was increasing by about £100 a month.

This doesn't suggest she was managing to repay the credit sustainably and I don't therefore think it was responsible for NewDay to subsequently increase her credit limit by almost 75%.

So, overall, I'm persuaded that the credit limit increases applied in March and July 2019 were irresponsibly made.

Putting things right

Mrs C has had the benefit of the credit that was advanced so it's fair for NewDay to expect her to pay that back.

However, she's been charged interest and late payment fees since the first credit limit increase in March 2019, which she wouldn't otherwise have had to pay. These should be removed so that a new starting balance consisting of only the amount lent is left and then any payments made should be deducted. If this results in Mrs C having paid too much, then any overpayments should be refunded adding 8% simple interest.

If money is still owed on the debt, then because Mrs C shouldn't have been provided the credit limit increases, NewDay should come to an affordable arrangement with Mrs C to repay the outstanding debt.

NewDay should remove any adverse credit reports they have made to Mrs C's credit file since the first credit limit increase in March 2019.

My final decision

For the reasons I've given above I uphold this complaint and tell NewDay Ltd to:

- remove any late payment fees or interest charged since March 2019. Create a new starting balance so that only the amount lent is left and then any payments made should be deducted. If this results in Mrs C having paid too much, then any overpayments should be refunded adding 8% simple interest.
- if money is still owed on the debt, then NewDay should come to an affordable arrangement with Mrs C to repay the outstanding debt.
- NewDay should remove any adverse credit reports they have made to Mrs C's credit file since the first credit limit increase in March 2019.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 22 April 2021.

Phillip McMahon
Ombudsman