

The complaint

Miss O is complaining about irresponsible lending by NewDay Ltd.

What happened

In March 2016, Miss O applied for a credit card with NewDay. Her application was successful and NewDay initially set a £100 credit limit.

In June 2016, NewDay increased Miss O's credit limit to £900, and in November 2018 they increased it again, to £1,500. Both times, NewDay wrote to Miss O offering the credit limit increase and giving her the opportunity to opt out.

In March 2019, Miss O told NewDay she was experiencing financial difficulties because of a reduction in her income. NewDay completed an income and expenditure assessment and agreed a nominal payment plan for Miss O to repay her debt. In September 2019, after Miss O had missed several of the payments due under the agreed payment plan, NewDay defaulted Miss O's account and sold it to a debt collection agency.

Miss O complained to NewDay. She felt that they'd been irresponsible when they gave her the credit card, and both times they increased her credit limit. But NewDay said they'd carried out relevant checks when she first applied, and before each credit limit increase. They said they were confident they'd offered the credit card and credit limit increases correctly.

As Miss O was still unhappy she brought her complaint to our service. She complained that she was given the credit card and credit limit increases without relevant checks being made. She said this resulted in a default on her credit file and has caused her financial hardship due to the charges for being over her credit limit. Miss O also mentioned that the issue has exacerbated her mental health conditions.

Our investigator looked at Miss O's complaint. He thought NewDay had acted fairly in offering Miss O the credit card in the first place. And he thought NewDay had treated Miss O fairly once she'd told them about her financial difficulties in March 2019. But he didn't think they should have increased Miss O's credit limit either in June 2016 or November 2018. His primary reason for this was that Miss O had been over her credit limit for much of the time she had the credit card. Our investigator thought NewDay should remove the default from Miss O's credit file, and refund all interest and charges she paid after the credit limit was increased.

Miss O accepted our investigator's view. But NewDay didn't. They said that being over her credit limit isn't on its own an indicator of financial difficulties – and they said they'd checked the affordability of both credit limit increases for Miss O. They asked for an ombudsman's decision.

I issued a provisional decision on 9 March 2021. In that decision I said I wasn't minded to uphold Miss O's complaint. I felt that she'd fallen into financial difficulties primarily because of a change in circumstances rather than because of NewDay's lending decisions.

In summary, my provisional decision said:

What's required of NewDay

- The Financial Conduct Authority's (FCA's) consumer credit sourcebook (CONC) sets out the rules about the sort of things lenders need to consider before they lend money to an individual. The rules were updated in November 2018 so I've looked at both sets of rules. In essence, both before and after November 2018, the rules required a lender to make proportionate checks to ensure that a customer would be able to meet repayments in a sustainable way, without incurring financial difficulties.

Initial application for credit card

- In Miss O's application for the credit card, she said she had gross annual income of £16,000 and other household income of £6,000. Her credit file showed no negative markers, and £200 in unsecured debt. I said I felt NewDay had carried out a proportionate assessment and it was reasonable for them to assume in that context that a credit limit of £100 was affordable for Miss O.

First credit limit increase – June 2016

- At the time of her first credit limit increase, Miss O had been over her credit limit twice and withdrawn cash on her credit card – both potential indicators of financial difficulties. So I felt that NewDay's checks needed to be more thorough. NewDay said they'd have looked at various risk factors and would have checked the cost of credit against an estimate of Miss O's disposable income – but they hadn't provided evidence of those checks.
- Because I couldn't see that NewDay had done the checks, I looked at Miss O's bank statements to see if the credit limit increase would likely have been affordable for her. I could see Miss O's income was around £1,700 per month, and I estimated her necessary spending was around £850 per month. So I felt she had around £850 in disposable income, which was more than enough to sustainably repay the £900 credit limit.

Second credit limit increase – November 2018

- NewDay used a model which estimated Miss O's disposable income at £800 per month in November 2018. The risk data suggested a high confidence in her income and fairly low risk overall. I don't think NewDay had any reason to believe the data wouldn't apply to Miss O - so I thought it was fair for them to use this statistical data.
- I thought about the reduction in benefits that caused Miss O's reduction in income. I thought this was reasonably foreseeable for Miss O but I didn't think she'd told NewDay that part of her income was related to the age of her children so I didn't think it was fair for NewDay to anticipate the reduction in income when looking at affordability.
- I also thought about the other factors that might have influenced NewDay's assessment. Miss O had two county court judgments against her, and had significantly more other debt in November 2018 than she'd had in June 2016. She'd also been over her credit limit multiple times between June 2016 and November

2018. But on the other hand, she hadn't missed any payments, and her use of the credit card for cash withdrawals had reduced significantly.

- Taking everything into account, I felt it was appropriate for NewDay to apply some caution to their assessment of the affordability of the credit limit for Miss O. But I felt that I'd done this by assuming her disposable income was only 80% of the estimated £800, i.e. £640. I said this amount would have been enough for Miss O to make sustainable repayments across all her debts.
- So I thought NewDay had done enough checks before offering the November 2018 credit limit increase – and I thought the outcome of the checks was fair based on the information NewDay had available to them.

Financial difficulties - March 2019

- I could see NewDay wrote to Miss O as soon as she told them she was having trouble making repayments. The letter explained that they'd be able to come to a repayment arrangement once Miss O had completed the income and expenditure form, and it suggested some charities Miss O might benefit from speaking to.
- Once Miss O had returned the income and expenditure form, NewDay allowed her to make payments of £1 per month for six months and then no payments for three months. And they didn't charge her any interest during this time. I can see NewDay warned her that her account might be passed to a collection agency – and that it might be defaulted if she didn't make the agreed payments in line with her plan. So I said I thought New Day had treated Miss O fairly – I didn't think there was much more they could have done to help her.

Miss O and NewDay replied to my provisional decision. NewDay had no further comments but Miss O wasn't happy. In summary she said that NewDay should have been aware she wasn't able to manage her credit because of the number of times she was over her credit limit and because of the cash withdrawals. On top of this, she noted the CCJs she'd had as a result of not repaying payday loans. She also mentioned that her credit file showed two accounts as being in default after NewDay had passed the account to a debt collection agency.

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 I appreciate it'll be disappointing for Miss O, I'm still not upholding her complaint. Miss O hasn't provided any new evidence, and I'd already taken the comments she's made into account when writing my provisional decision – so they haven't changed my mind.

Miss O said NewDay should have been aware in November 2018 that she wasn't able to manage her credit. But, as I've explained above, the requirement on NewDay is to do proportionate checks to determine whether the credit was affordable. Although the indicators Miss O mentioned can suggest some financial difficulties, Miss O was regularly paying at least two to three times the minimum payment off her credit card. And their estimate of effective disposable income suggested she would easily be able to make sustainable repayments. Having looked through Miss O's bank statements, I think NewDay's estimate of disposable income was in line with what I've seen. So I'm satisfied that even if NewDay had done more checks they'd have decided the credit limit increase was affordable – and the decision would have been reasonable.

In respect of Miss O's comments about having two defaults on her credit file (in relation to both NewDay and the debt collection agency), Miss O's not provided any evidence of this, and the credit reports she has shared with us only show one default. I'm satisfied that if this was an issue, it was for a relatively short period and has been resolved with limited impact on Miss O.

My final decision

As I've explained above, I'm not upholding Miss O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 26 April 2021.

Clare King
Ombudsman