

The complaint

Mr R complains that NewDay Ltd irresponsibly allowed him to open two credit card accounts that were unaffordable and also increased the credit limit on one of the accounts.

What happened

Mr R says he opened the first account in July 2017 and three credit limit increases were applied that were unaffordable. He says he was in financial difficulties at the time and was using payday lending to support his income. Mr R says he would like further interest and charges refunded. The second account was opened in July 2019 when Mr R says NewDay knew he was in financial difficulties. He says NewDay accept that, but he would like the outstanding balance written off and any adverse information removed from his credit file.

NewDay says it accepts it shouldn't have opened the second account and has refunded charges and interest. It says it carried out appropriate checks on the first account and Mr R said he earned £20,000 a year and had debts of about £8,400. NewDay says it approved a relatively low credit limit of £900 which it increased in November 2017 to £1,800 and increased again to £2,550 in April 2018. The final increase took place in August 2018 to £3,300 which NewDay accepts was unaffordable and shouldn't have been approved. It has refunded interest and charges on that account.

Mr R brought his complaint to us and our investigator upheld the complaint in part. The investigator thought NewDay should remove any adverse information from Mr R's credit file about the second account but didn't think the balance should be written off as Mr R had the benefit of the spending. The investigator thought NewDay carried out reasonable and proportionate checks on the first account application and thought the first credit limit increase was also appropriate. But thought the second credit limit increase not reasonable as Mr R had exceeded his credit limit in two or the three previous months. The investigator recommended charges and interest be refunded from April 2018 and Mr R's credit file be updated.

Mr R says he had payday loans at the time of lending but can't find evidence of them.

NewDay doesn't accept that view and says there was no indication of financial difficulties at the time of the second increase and its policy is not to lend if there are three consecutive months of exceeding a credit limit. It says it can't remove a default when it's been correctly recorded.

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 have come to the same overall view as the investigator and for similar reasons.

Lenders and credit providers should carry out reasonable and proportionate checks on any

borrowing application. Those checks will of course vary depending on the type and amount of that lending.

There is no dispute here that NewDay ought to have rejected Mr R's application for the second account as it ought to have been clear that any lending would be unaffordable. I think NewDay has acted fairly by refunding the charges and interest but I'm satisfied Mr R had the benefit of that money and so it would be unfair to order NewDay to write off the balance. I appreciate NewDay says it shouldn't remove the default from Mr R's credit file. But I disagree and NewDay should put Mr R back in the position he would have been in before the mistake was made. And I'm satisfied that it would be unfair for the default to remain in circumstances where the account shouldn't have been opened which allowed the account to default.

I have looked carefully at the application for the first account and I agree with the investigator that NewDay carried out reasonable and proportionate checks on it and allowed a relatively modest credit limit of £900. So, I don't think NewDay made a mistake or acted unfairly by opening the account. I appreciate Mr R says he had payday loans, but he hasn't provided any evidence of them or given us a copy of his credit file. So, in those circumstances based on the evidence I have seen I'm satisfied the lending was reasonable and proportionate.

I also think the first credit limit increase was also checked appropriately and NewDay was able at that stage to consider Mr R's positive account management in the months before the increase. So, I don't think NewDay made a mistake or acted unfairly by increasing the credit limit on this occasion.

I can see from NewDay's records that Mr R used the first credit limit increase and in the three months before the April 2018 increase exceeded his credit limit on two occasions. I appreciate NewDay says it wouldn't have increased the limit if there had been three occasions when the credit limit was exceeded but I think taking all of the factors into account that it should have carried out further reasonable and proportionate checks on the increase offer. I also think it should have considered how close in time it was to the November 2017 increase and what had taken place, namely the immediate use of the new limit. It follows that I find the second credit limit increase was not affordable. And it's clear that after the increase Mr R's financial position did deteriorate.

There is no question here that the third credit limit increase was unaffordable as NewDay accept that is the case and I think it has acted fairly by refunding interest and charges.

Putting things right

I intend to order NewDay to put Mr R back in the position he would have been in from April 2018 if the credit limit hadn't been allowed. I accept that may be a difficult calculation, but it should refund interest and charges over and above those that would have been incurred on the £1,800 credit limit. And it will need to take into account that it has refunded charges and interest on the last credit limit increase. NewDay should pay Mr R 8% interest if there is a balance owing to him after that calculation. It should also remove any adverse information such as late payments from Mr R's credit file if, after those calculations are carried out, it would have been the case that such adverse information wouldn't have been reported. I also agree with the investigator that NewDay should pay £100 compensation for the inconvenience and distress Mr R was caused. I find such an award would be fair and reasonable. I can't fairly order the default from the first account be removed from Mr R's credit file as I think it clear the relationship between him and NewDay had broken down and he was unable to repay his debt.

My final decision

My final decision is that I uphold this complaint in part and order NewDay Ltd to pay Mr R £100 compensation and remove any adverse information about the second account from his credit file. I also order NewDay Ltd to refund any charges and interest applied to the first account from April 2018 on any balance greater than the credit limit at the time namely £1,800. If that results in money being owed to Mr R then NewDay should refund that money and pay 8% simple interest on that amount and provide him with a certificate of tax paid to Her Majesty's Revenue and Customs. And any adverse information about the first account should be removed from Mr R's credit file if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 9 June 2021.

David Singh
Ombudsman