

The complaint

Mr N complains that NewDay Ltd trading as Marbles Card (“NewDay”) lent to him when it shouldn’t have.

What happened

Mr N took out a branded credit card in January 2017 with a limit of £900. There were then four credit increases to the credit limit between June 2017 and December 2018, at which point the limit had increased to £5,500.

Mr N also opened another branded credit card in October 2018 with a limit of £900. This limit was increased to £2,150 in January 2019, with no further increases after this. There was then a further application approved in March 2020 for a third branded card with a £500 limit. The limit on this card was increased to £950 in September 2020.

Mr N complained to NewDay about all of his borrowing with it – saying that it had been irresponsible in providing the credit cards where he couldn’t afford to maintain them. NewDay responded to say that it had followed its usual approach in deciding whether Mr N could afford what it lent to him – including external searches and a review of his account activity prior to providing any lending.

Mr N wasn’t happy with this and referred his complaint to our service, where one of our investigators looked into it. They felt that NewDay had done enough when assessing the affordability of the first and second branded cards – and the increases to the limits of these. They found that the checks went into sufficient detail and that there was no reason for NewDay to reasonably think the lending would be unaffordable for Mr N.

But our investigator didn’t think NewDay had done enough in respect of the checks it did when assessing whether the third branded card was affordable. They said that Mr N had a number of credit searches on his credit record, two missed payments to a payday loan and that his overall borrowing was now £29,300. When considered alongside the conduct on his other cards with NewDay, they felt that it should’ve completed a more thorough check of Mr N’s situation before agreeing to lend.

Mr N agreed with the investigator’s view. But NewDay didn’t. It said that it couldn’t find any record of payday loans, although there were records of searches for credit. But NewDay restated that its searches for the card and for the subsequent increases, showed that there were no accounts in arrears, either with NewDay or other lenders and no other records of adverse data.

Our investigator acknowledged that NewDay may not have seen the payday loan data they initially referenced. But they maintained that more checks should have been done here, especially as Mr N informed NewDay he was in financial difficulties on two of his other cards with it. NewDay continued to disagree, so the complaint was passed to me to decide.

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 note that the parties seem to be broadly in agreement that the first two branded cards that NewDay provided Mr N were affordable and responsibly lent. I agree and for the same reasons that our investigator outlined. Ultimately, the checks that NewDay has shown it did in relation to both of these cards – in terms of both the original limits and the increases to the credit limits – look to have been proportionate and reasonable in the overall context of the lending.

But by March 2020, when Mr N applied for the third branded card, it was over a year since NewDay had provided any lending to him. And I think it's fair to say that the situation was different at this point. Based on what NewDay's checks revealed at this point, compared to what it knew from previous lending checks, his sole and household income had increased – but so had his overall unsecured indebtedness. From 2017 when the first branded card was provided, NewDay's records show Mr N's indebtedness as £6,700 in total. Then in 2018, just a year later, that increases to £22,900.

Those increases were approved against a relative increase in overall household income though and so I can see why this wouldn't have raised concerns with NewDay when its checks for the previous cards revealed this. But by the point the third branded card was applied for – NewDay recorded Mr N's overall unsecured debt as £29,300. That's a large amount of borrowing, relative to Mr N's income. So NewDay knew that Mr N was someone who had steadily increased their overall borrowing since he had taken the first card out.

When taken in the context of the fact that Mr N had nine active credit cards and other indebtedness elsewhere, I think that NewDay had enough information to think twice about lending again on the basis of the information it did here. At the very least, I think this was a borderline lending decision and I note that NewDay's own criteria assessed Mr N's application as a 'medium' risk. I accept that this alone wasn't reason for NewDay not to lend – but I think it would've been proportionate to what the checks revealed here to exercise some caution and make some further enquiries before agreeing to lend.

If NewDay had asked more questions of Mr N – then I think what he would have told it, based on the information I've seen, would have strongly suggested that further lending wasn't affordable or responsible here. His statements show that he had a high level of indebtedness, with high monthly payments to a number of creditors and payday loan providers. I accept that NewDay may not have been aware of the specific details of some of these accounts from its initial checks – such as the payday loans. But I think it would likely have become aware, had it asked more questions.

So even considering that the limit here of £500 wasn't particularly high, I still think NewDay should've performed more checks than it did in order to be proportionate to what it knew about Mr N's situation. The same goes for the increase to Mr N's credit limit in September 2020. Mr N's financial situation hadn't changed much by then and he had told NewDay that he was in financial difficulties, yet it still increased the limit on the card.

Mr N did afford to make payments on the card for a few months between March and September, before he told NewDay that he was experiencing financial difficulties. But, after we asked him how this was possible – he explained that this was because he made sure all the minimum payments were made each month on what he owed – sometimes getting help from family members in order to do this. So I'm satisfied that, while on the face of it, Mr N's situation may have looked acceptable to NewDay – the underlying situation was that he was ultimately struggling to maintain his borrowing.

Putting things right

Overall here, I think it would have been proportionate and reasonable in the individual circumstances for NewDay to have made further checks into the affordability of the third card. If it had, then I'm satisfied that NewDay, as a reasonable lender, wouldn't have provided the card, or the further limit increase.

Mr N has spent the money the card made available to him, so I think it's fair that he repays that. But I don't think he should be disadvantaged by having to pay back any interest or charges on that amount, so NewDay should refund any that have been applied to the card.

If after doing so, that results in a credit balance that's due to Mr N – then NewDay should add 8% to that to reflect the fact he's been without that money. As far as I know, NewDay hasn't recorded any adverse information in relation to this card – but if it has, then it should remove this too.

My final decision

I uphold this complaint. NewDay Ltd must:

- refund any interest and charges applied to the credit card Mr N took out in March 2020
- if any refunds made result in a credit balance due to Mr N, NewDay Ltd should pay 8% interest on top of that
- if NewDay Ltd has recorded any adverse information in relation to this card on Mr N's credit file, it should remove this

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

James Staples
Ombudsman