

The complaint

Miss J is unhappy that NewDay Ltd approved her for a credit account that was unaffordable for her at that time. Miss J is also unhappy that NewDay Ltd subsequently increased the credit limit on the account, which she feels was also unaffordable for her at that time.

What happened

Miss J applied for a NewDay credit account and was accepted with an initial credit limit of £1,200. Approximately four months later, NewDay increased the credit limit on Miss J's account to £1,950. Miss J then fell into difficulties maintaining the credit account, and the account was ultimately defaulted by NewDay and sold to a third-party debt purchasing company.

Upon review, Miss J felt that both the initial provision of credit and the later credit limit increase had both been unaffordable for her at those times. So, she raised a complaint.

NewDay looked at Miss J's complaint. They agreed that Miss J's initial credit application shouldn't have been approved, but they felt that the later credit limit increase had been justified – based on a consideration of the checks that they had undertaken into Miss J's financial position at those times.

As such, NewDay offered to reimburse all interest and charges accrued on the account since inception, but they felt that the default that they'd recorded on Miss J's credit file was an accurate representation of how Miss J had managed the account, and so were unwilling to remove it.

Miss J wasn't satisfied with NewDay's response, so she referred her complaint to this service. One of our investigators looked at this complaint. They felt that because NewDay had acknowledged that they should never have approved Miss J for a credit account in the first instance, this meant that NewDay should reasonably restore Miss J to the position that she would have been in had the credit account never been opened – which included removing the default from Miss J's credit file.

NewDay didn't agree with the view put forward by our investigator, so the matter was escalated to an ombudsman for a final 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.

NewDay have acknowledged that they should never have approved Miss J's initial account application and that Miss J should never have been given a credit account by NewDay.

In circumstances such as this – where a business has acknowledged that it's made an error – what this service would expect would be that the business would restore the customer to the position that they would have been in had the error not taken place.

In this instance, this means restoring Miss J to the position that she would have been in had her account application been declined by NewDay and therefore had no account ever been opened.

Had it been the case that Miss J's initial account application had been declined, Miss J would never have had a NewDay credit account on which to accrue arrears and on which to be ultimately defaulted. This means that had Miss J's initial account application been declined – as NewDay have acknowledged that it should have been – then Miss J would never have incurred a default on her credit file relating to this account.

I'm aware that NewDay feel that the default should remain on Miss J's account because it represents a fair record of how Miss J managed the account. But by their own reckoning, NewDay should never have given this account to Miss J in the first place, and so it will almost always be the position of this service that, in circumstances such as these, the default should be removed from the customer-in-question's credit file. And this is my position in this instance also.

Miss J has benefitted from the credit amount that she used, so I don't feel that it would be reasonable for me to instruct NewDay to write off that credit amount. But I do feel that Miss J shouldn't incur any form of detriment in relation to that credit amount, given that I'm satisfied that it was provided to her irresponsibly by NewDay.

It follows then that I'll be upholding this complaint in Miss J's favour and issuing corrective instructions to NewDay which will include that NewDay must repurchase the debt from the third-party debt purchasing company to which it was sold, and that NewDay must remove all reporting relating to this account from Miss J's credit file.

I hope that NewDay can understand, given what I've explained above, why I've made the final decision that I have.

Putting things right

If they haven't already done so, NewDay must reimburse all interest, fees, and charges incurred or accrued on this account since inception.

If these reimbursements result in Miss J's account having a credit balance in her favour, NewDay must pay Miss J the credit amount along with 8% simple interest calculated from the dates of any overpayments to the date of the reimbursement to Miss J.

NewDay must repurchase or reclaim Miss J's account from the debt purchasing company to which it was sold and must agree an affordable, interest free payment plan with Miss J based on an assessment of Miss J's income and expenditure.

NewDay must remove all reporting relating to this account from Miss J's credit file such as though it had never been approved or opened.

NewDay must make a payment to Miss J of £100 to compensate her for any trouble and upset this matter might have caused.

My final decision

My final decision is that I uphold this complaint against NewDay Ltd on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or

reject my decision before 25 August 2021.

Paul Cooper
Ombudsman