

## **The complaint**

Miss G has complained that NewDay Ltd hasn't treated her fairly as a vulnerable consumer, and as a result she accrued more debt on her credit card account.

## **What happened**

Miss G opened her account in March 2017, and between April and October 2019 Miss G says it was apparent she had a gambling problem. She feels NewDay let her down during this period of time by failing to identify that she was a vulnerable consumer or offer the support she required. Miss G feels once she had complained to NewDay and made them aware of how vulnerable she was, the service they provided was unsatisfactory and it didn't do what it said it would do. As a result, she would like NewDay to write off the outstanding balance on her credit card and close the account. She would also like all interest and charges that were applied between April 2019 to October 2019 to be refunded.

NewDay has said that between March 2017 and April 2019 Miss G was using her card for retail purchases. However, after April 2019, the account was being used for cash advances and gambling transactions. But NewDay says it wasn't made aware of Miss G's gambling problem until November 2019.

NewDay says that once it was made aware of Miss G's gambling problem on 8 November 2019, it agreed to look into her complaint. It also referred her complaint to the customer care team, who tried to contact Miss G on 12 November 2019. As it was unable to get hold of Miss G, it sent a 'contact us' letter. However, NewDay has said, given the nature of Miss G's call on 8 November, where she explained how vulnerable she felt, it should have done more to contact her.

Miss G spoke to NewDay on 3 December 2019. NewDay offered details for step change and gamble aware, but Miss G advised she was already receiving support. New Day also offered repayment options, but Miss G didn't want to commit to a payment plan until she had received a response to her complaint.

Originally NewDay issued a final response on 9 December 2019, not upholding Miss G's complaint. Miss G contacted NewDay again on 17 December 2019 and it agreed to a vulnerable block being put on her account and a partial refund.

Unfortunately, the partial refund was not actioned, so Miss G had to contact NewDay on several occasions by telephone and email. NewDay accepted this was not adequate service and offered Miss G £25 for the trouble and upset it caused.

Miss G remained unhappy with NewDay's response, so she brought her complaint to our service.

Since then NewDay has also refunded 50% of the interest charged between April to October 2019 and refunded a £12 fee.

Our investigator looked into Miss G's complaint and while he did feel NewDay hadn't provided a satisfactory level of service, he felt that NewDay had done enough to put things right. Miss G didn't agree.

### **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 agree with the investigator's findings for broadly the same reasons. I will explain why.

Miss G opened her account in March 2017. Between March 2017 and March 2019, I am satisfied that Miss G largely operated the credit card in line with the terms and conditions of the account. Therefore, I will focus my decision on the events that occurred after March 2019.

Miss G is unhappy with the charges and interest applied to her account in respect of the gambling transactions; and the lack of support NewDay provided in relation to her gambling problem. However, the charges appear to have been applied in line with the terms and conditions of her account. So, I don't think NewDay has made an error, procedurally, by applying these. What is left for me to decide is whether I think NewDay has acted positively and sympathetically once it became aware of Miss G's financial hardship caused by her gambling problem.

NewDay does have a responsibility to ensure it treats a consumer positively and sympathetically if they become aware the consumer is experiencing financial difficulties. However, it is the account holder's responsibility to inform the lender if they are experiencing financial difficulties. Miss G says she contacted NewDay early on when her problem began. NewDay says it doesn't have any call records to show this. I have reviewed the evidence Miss G has provided, and it is clear that she did make contact with NewDay on 18 April 2019 (12 minute call), 27 May 2019 (2 minute call), 15 July 2019 (6 minute call) and October 2019. So, it is disappointing that NewDay couldn't provide more information regarding the contact that was made on these occasions. Never the less, I can see Miss G did make contact with NewDay during this period of time.

However, I have also considered what Miss G has said in her complaint to our service. She states that while she did contact NewDay early on, it was to notify them that she didn't recognise numerous transactions on her statement to a gambling company. As such, I can't see any evidence to suggest that Miss G told NewDay prior to 8 November 2019 that she had a gambling problem. Therefore, on balance, I am not satisfied that NewDay was aware Miss G had a gambling problem.

It isn't NewDay's responsibility to tell an account holder what they can and can't spend money on, or to monitor transactions and make unsolicited recommendations about how money is being spent. So, although Miss G's statements show that between April 2019 and December 2019 her spending shifted to cash advances and gambling transactions, I don't think that alone is enough to say that NewDay needed to do more or should've limited Miss G's spending.

Having reviewed the statements, I can see during this period of time Miss G's credit limit was £6,000. She exceeded the agreed limit in July 2019 by £68 and brought the account back within the limit the following month. In October 2019 Miss G exceeded the agreed limit again and it wasn't brought back within the limit before December 2019 when the account was suspended.

Therefore, Miss G largely operated her account within the terms and conditions of the account until October 2019. And so, I don't think there was anything to suggest, Miss G was experiencing financial hardship prior to this point. On the occasions when Miss G did exceed her limit, NewDay has shown that it wrote to Miss G about this. The letters gave contact details for Miss G to get in touch if she was having difficulty making payments. I've considered whether NewDay should've done more than this at that point. But from the statements I've seen, each time the account exceeded its limit, payments were made to bring it back within its limit. I can't say this was enough to warrant NewDay investigating Miss G's spending pattern on her account without Miss G advising NewDay she was experiencing financial hardship.

I am satisfied that Miss G did make NewDay aware of her challenges in November 2019. At this point I can see that Miss G's complaint was referred to the customer care team, which is what I would have expected given the nature of Miss G's call. I appreciate the customer care team tried to contact Miss G, but I agree that at this stage, NewDay should have done more to reach out to Miss G and to promptly act in a positive and sympathetic manner. It wasn't until roughly a month later that Miss G was offered a payment plan and provided with contact details of step change and gamble aware.

I feel NewDay could have been more proactive with offering support to Miss G and ensuring she was treated in line with its vulnerable customer policy. However, I accept that NewDay did acknowledge this and took steps to rectify the issue. Miss G had a vulnerable block put on her account, and a block put on to stop further fees accruing. NewDay also refunded interest and charges from when it was made aware of the difficulties Miss G was experiencing, to December 2019. It also offered Miss G £25 as a gesture of goodwill. Therefore, while I accept NewDay didn't act as promptly as it should have, I am satisfied that it has now acted positively and sympathetically to Miss G's circumstances as it should have done when it was made aware in November 2019.

The service Miss G has received has been unsatisfactory. NewDay delayed making the adjustments it promised, didn't proactively contact Miss G once her complaint had been passed to the customer care team and didn't respond to Miss G's emails when she was chasing why the adjustments hadn't been made and raising further points for it to consider. In recognition of this, NewDay also refunded 50% of interest charged between April to October 2019, which I think is fair given the fact NewDay was unaware of Miss G's circumstances at that point.

In summary, I accept this was a very difficult time for Miss G and I am empathetic to her circumstances. But taking everything into account, I can't reasonably say NewDay acted unreasonably prior to November 2019. The charges and interest were applied to her account correctly. And I don't think the operation of the account meant that NewDay should have intervened before Miss G made it aware of her gambling problem. However, I do accept more could have been done by NewDay once it was made aware, but I feel NewDay has done enough to put things right and has acted positively and sympathetically to Miss G's complaint. So, I won't be asking NewDay to do anything further.

### **My final decision**

My final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 7 September 2021.

Jade Rowe

**Ombudsman**