

The complaint

T and Mr R complain that NewDay Ltd have irresponsibly lent to Mr R.

What happened

Mr R was accepted for his first NewDay credit card with a credit limit of £250. In January 2016 his credit limit was increased to £500, which then increased to £1,300 in July 2016. In February 2017 Mr R's credit limit was increased to £2,300 and in July 2017 this was increased to £3,400.

Mr R was accepted for a second NewDay credit card in September 2017 with a credit limit of £1,000. The credit limit was increased to £2,200 in April 2018, then increased to £3,450 in September 2018 and then to £4,000 in February 2019.

Mr R complained to NewDay to say that they had irresponsibly lent to him. NewDay did not uphold Mr R's complaint. They said that when Mr R was accepted for his first NewDay credit card he had a gross income of £18,000 and unsecured debts of £600. When he was accepted for his second NewDay credit card in 2017, Mr R had informed them that his gross annual income had increased to £22,000 and his unsecured debts outstanding were £5,200.

NewDay said that as a responsible lender, when making a decision to offer credit they considered the information he supplied on his application and the information held at credit reference agencies and they said they applied fees and interest in line with his terms in conditions. Mr R was not happy with the outcome of his complaint, so he brought his complaint to our service.

During our investigation NewDay said that they would partially uphold Mr R's complaint for the first credit card he had with them because they had information when they increased his credit limit from £500 to £1,300 (the second credit increase on his first NewDay account), that Mr R had been on a repayment plan elsewhere and they wouldn't have increased his credit limit if they acted on this information. They proposed to refund the proportion of interest charged following this increase and also any late and over limit fees. They proposed the refund should be made directly to the account to help reduce the balance.

Our investigator partially upheld T and Mr R's complaint. He agreed with NewDay's decision to uphold Mr R's complaint regarding the increase from £500 to £1,300 and the increases thereafter.

For the second NewDay credit card, our investigator said that he didn't think the second NewDay credit card should have been opened as the checks they carried out weren't proportionate to the information they had available such as a repayment plan Mr R was on in the previous year.

Our investigator recommended that NewDay refund all fees and the interest applied to the first NewDay card from the time of the second increase in July 2016, to pay 8% simple interest per year from the date the interest and charges were incurred until the date of settlement and remove any adverse credit information from Mr R's credit file from the date of

the second credit increase. For the second credit card he recommended that NewDay refund all fees and interest applied to the account from when the card was opened to the date of settlement, pay simple interest of 8% per year from the date the interest and charges were incurred to the date of settlement and remove any adverse credit information for the second credit card. NewDay asked for an Ombudsman to review the complaint as they didn't agree.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've decided to make a provisional decision here as I'm providing further information and this will give both parties a chance to respond to what I've provisionally decided.

Before agreeing to increase the credit available to Mr R, NewDay needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. So I've looked at what NewDay have considered and have detailed my findings below.

First NewDay credit card:

NewDay have accepted that they shouldn't have increased Mr R's credit limit from £500 to £1,300 (the second credit increase on his first NewDay account). So as both parties agree with this, I'll just be focusing on what NewDay have considered before this.

NewDay opened Mr R's account with an initial credit limit of £250 in April 2014. Mr R said his gross annual income was £18,000 and he had unsecured borrowings of £600. I've looked at what NewDay's application data told them here. The data shows that Mr R had eight active cards/accounts and outstanding balances on active or defaulted payday loans of £1,794. The data shows that Mr R had no adverse credit data in the previous 12 months and was up to date with his current arrangements.

In January 2016 the limit was doubled to £500. Although the credit limit was doubled, I'm persuaded that the increase was not significant as the increase was for only £250. Looking at Mr R's statement balances before the credit limit was increased, although he does go close to the credit limit each month, he is able to pay substantially more than the minimum payment. He also doesn't have any adverse credit data showing on the information NewDay saw.

So based on the information available to NewDay I'm persuaded that the initial checks they carried out were proportionate to the level of the original credit – as the outstanding unsecured debt would be a small proportion of his annual income and the first increase was a small amount. I will address how NewDay should put things right regarding the further credit increases later in my provisional decision.

Second NewDay credit card:

I've looked at what information NewDay considered when looking at accepting Mr R's application for his second NewDay credit card. The application data shows some of Mr R's outgoings. His living expenses and his monthly accommodation costs were recorded as a total of £477 a month. Mr R's income (£22,000) has increased since he opened his first

credit card account. So on the surface it may appear that Mr R has a lot of disposable income. But I think that NewDay should have been aware that this may not have shown the full picture of the information available and I'll explain why.

Mr R's first NewDay credit card had a limit of £3,400 when he was accepted for his second account. And NewDay's data shows a total unsecured outstanding balance of £5,200. So the proportion of debt compared to Mr R's income is a lot higher than what it was when he applied for his first NewDay credit card. In addition, NewDay had data to show that Mr R was on a repayment plan for his external debt earlier in the year. So I'm persuaded that NewDay should have looked into Mr R's outgoings more closely as part of a proportionate check, as it appeared he may not have as much disposable income as he told them. I say this because his debt increased and he was on a payment plan not that long before being accepted for his second NewDay account. The number of his active accounts also increased since his first application which suggests a further reliance on unsecured borrowings.

So I'm satisfied that if NewDay had asked Mr R for his full outgoings as part of a proportionate check where he already had several unsecured borrowings, then I'm persuaded that this would have shown his outgoings were substantially higher than just £477 a month, and this would have been one reason to prompt NewDay to do further checks based on his outstanding commitments. I think this should have prompted NewDay to conduct further proportionate checks especially as they were giving him £1,000 credit limit.

Mr R hadn't had any defaults or County Court Judgments prior to his application for the second NewDay credit card. This would suggest, on the face of it, that Mr R hadn't had any major issues in maintaining his payments up to the point of the acceptance of his application for the second account. But it also does not show the full picture here and I think it's that which was missing from the assessment. I'm persuaded that it would have been proportionate to investigate the unsecured debt Mr R had in more detail, along with his outgoings prior to accepting his application for the second NewDay credit card.

So I asked Mr R how he was managing to meet his outgoings here. He said he was borrowing one pay day loan after another to pay different people each month until his debts were out of control. He said he had loans from credit unions and his credit cards were maxed out. This led me to ask for his bank statements so I could see the extent of his borrowing. This is something that I'm persuaded NewDay would have wanted to see if they asked for details of all of his outgoings prior to the credit limit increase as his outgoings should give rise to a concern that the £1000 credit limit would be unaffordable and unsustainable for Mr R.

Mr R's bank statements show that in the three months leading up to the second NewDay credit card being accepted, he had took out several credit union loans and a payday loan. The statements indicated that Mr R's income was not sufficient to meet his outgoings and therefore Mr R kept obtaining more credit union loans.

So I'm satisfied from the information I've seen here that Mr R could not afford his commitments, as he did not have enough disposable income to do so, and when NewDay gave him a credit limit of £1,000 this also became unaffordable for Mr R as he would need to keep borrowing from multiple sources to meet his increased minimum payments. If NewDay had asked for details of his outgoings as part of a proportionate check when accepting his application and giving him an initial credit limit of £1,000 then I'm persuaded they would have seen the increased payments would not have been sustainable or affordable. I'm satisfied they shouldn't have accepted his application as he was clearly struggling to meet his commitments and borrowing from a number of sources.

In order to put things right, I intend to ask NewDay to rework Mr R's first NewDay account to

ensure that from July 2016 interest is only charged on the first £500 outstanding balance to reflect the fact that no further credit limit increases should have been provided. NewDay should remove any late payment or over limit fees from July 2016 and the payments Mr R made from July 2016 should then be deducted from the reworked account balance.

Any extra that was paid should be treated as overpayments and refunded to T with interest added at 8% per year simple on any overpayments, if there were any, from the date they were made to the date of settlement. They should also remove any adverse credit information from Mr R's credit file from the date of the second credit increase.

For Mr R's second NewDay account, I intend to ask them to remove interest charged, any late payment or over limit fees and the payments Mr R made on the account. Any extra that was paid should be treated as overpayments and refunded to T with interest added at 8% per year simple on any overpayments, if there were any, from the date they were made to the date of settlement. They should also remove any adverse credit information for the second credit card from Mr R's credit file."

I invited all parties to let me have any further submissions before I reached a final decision. Mr R responded and said there was no more information he wished to add. T and NewDay did not respond to my provisional 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.

As no party has presented me with any further information to consider, then my final decision and reasoning remains the same as in my provisional decision.

Putting things right

In my provisional decision I said I intended to ask NewDay to rework Mr R's first NewDay account to ensure that from July 2016 interest is only charged on the first £500 outstanding balance to reflect the fact that no further credit limit increases should have been provided. NewDay should remove any late payment or over limit fees from July 2016 and the payments Mr R made from July 2016 should then be deducted from the reworked account balance. Any extra that was paid should be treated as overpayments and refunded to T with interest added at 8% per year simple on any overpayments, if there were any, from the date they were made to the date of settlement. They should also remove any adverse credit information from Mr R's credit file from the date of the second credit increase.

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My final decision

I uphold the complaint. NewDay Ltd should rework Mr R's first NewDay account to ensure that from July 2016 interest is only charged on the first £500 outstanding balance to reflect the fact that no further credit limit increases should have been provided. NewDay Ltd should remove any late payment or over limit fees from July 2016 and the payments Mr R made

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Under the rules of the Financial Ombudsman Service, I'm required to ask T and Mr R to accept or reject my decision before 6 October 2021.

Gregory Sloanes
Ombudsman