

The complaint

Ms H complains about lending made to her by NewDay Ltd trading as Fluid Mastercard.

What happened

Ms H said that NewDay had lent her money she couldn't afford to pay back. She said that she was struggling to make payments on time, and she had missed payments due to her income simply not being enough to pay other loans and make ends meet. In January 2021, she received a default notice for this debt.

Ms H wanted us to tell NewDay remove the interest she was being charged, and make a suitable arrangement to settle what was due.

NewDay said that Ms H opened this card account in late August 2019. She said then that she was employed part-time, with an annual income of £22,000 and NewDay's checks showed she had an unsecured debt balance of £21,700.

NewDay said that when Ms H opened her card account, she had no accounts in arrears, no county court judgments against her, she wasn't in a debt management programme and she had no payday loans. NewDay said that there was one default on her credit file, but this was recorded 18 months prior to the application. NewDay opened her card account with a credit limit of £1,500. NewDay was confident that it had lent responsibly to Ms H. It said it never increased her credit limit.

NewDay also said it had provided appropriate support to Ms H when she got in touch to say she was having financial difficulties. It put a payment holiday in place from 1 April 2020, then contacted Ms H after that, but she said she could maintain the payments going forward. But arrears began to accrue again in September 2020, Ms H hadn't made her full minimum payment in August. Insufficient payments were received after that to clear the arrears on the account. Ms H's account was terminated on 17 February 2021.

Our investigator thought this complaint should be upheld. She said that the lending NewDay made to Ms H had taken her unsecured borrowing over 100% of her income. And she set out the details of Ms H's financial situation at the time, which Ms H had shared with us through her bank statements and payslips, as well as discussing her family situation and dependents. Our investigator said that taking account of this, she didn't think the lending NewDay had made was affordable for Ms H, and she said Ms H quickly got into difficulties.

Our investigator said that NewDay should reimburse all interest and charges applied from the time of the account opening, to date. If there was any money left once that refund had been applied to Ms H's debt then NewDay should pay that to Ms H, plus interest. If Ms H still owed NewDay money, then it should arrange a repayment plan with her. And NewDay should remove from Ms H's credit file, any adverse credit data reported from account opening to date, as the account should never have been given to Ms H.

NewDay didn't agree. It wanted to stress that it is a second-chance lender. It said that the information it received showed Ms H had a medium to high level of debt to income, but it

wasn't unusual for someone to be accepted for one of its cards with this level of debt.

NewDay said it couldn't have known about things like deductions her employer makes from Ms H's wages. It said it isn't required to carry out the sort of income and expenditure checks that our investigator said it should've done. It said they aren't an industry-wide requirement. And it didn't think it could've known how Ms H would use her card, before she took it out.

Our investigator didn't change her mind. She said that more detailed checks than the ones NewDay told us it had carried out can be required in some circumstances, and she thought they were required here. She still thought NewDay shouldn't have lent to Ms H.

NewDay said that it wanted this case to be referred to an ombudsman, so it was passed to me for a final decision.

My provisional decision

I issued a provisional decision on this complaint and explained why I did propose to uphold it. This is what I said then:

I agree with our investigator that Ms H's initial use of the card was an indication that she was in financial difficulties when she got the card. But what I have to assess, is whether NewDay should've known this, when it made its lending decision.

When Ms H applied for her card account, her unsecured debt was almost as much as her annual income. With the additional lending that NewDay offered her, she owed over 100% of her yearly income, before allowing for tax or any living expenses.

NewDay has accepted that this meant Ms H was at what it terms "medium to high level of indebtedness". I think it was clear, from the information that NewDay did have, that Ms H's circumstances were not such that it was obvious that her income and expenditure were going to have no impact on her affordability risk. The creditworthiness assessment that NewDay does ought to be proportionate to the individual circumstances of each case. And this case, I think it was appropriate for NewDay to carry out a more detailed assessment of Ms H's financial position, if it wanted to lend to her.

I also think that if NewDay had looked in more detail at Ms H's personal circumstances, it would not have decided to lend her £1,500. We know now that this wasn't affordable for her. But I think it's likely that additional checks into Ms H's income and expenditure would've revealed this before NewDay's lending decision was made, if they'd been done at that time.

For those reasons, I think that NewDay should refund onto Ms H's debt, all the interest and fees she has been charged on this lending. I don't anticipate that this will be enough to clear Ms H's debt.

I can see that she's now agreed a payment plan with NewDay, so I make no determination on that.

I also think any negative markers on Ms H's credit file, for this lending, should be removed, as I agree with our investigator that this lending shouldn't have been made to Ms H.

And finally, Ms H has told us she was already finding it difficult to manage her finances when NewDay opened her credit card account. And it does look to me as if

the money NewDay has lent her has made things worse. So I will also ask NewDay to pay Ms H £100 in compensation, to make up for the part this lending has played in what's gone wrong.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both parties acknowledged receipt of my provisional decision, but neither party offered anything further.

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.

I haven't changed my mind. I'll now make the award I originally proposed.

My final decision

My final decision is that NewDay Limited must

- refund onto Ms H's debt, all the interest and fees charged on this lending,
- remove any negative markers on Ms H's credit file, for this lending, and
- pay Ms H £100 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 6 October 2021.

Esther Absalom-Gough
Ombudsman