

## **The complaint**

Mr B has complained NewDay Ltd gave him a credit card with subsequent credit limit increases without properly assessing his ability to repay.

## **What happened**

Mr B applied for a credit card with NewDay in February 2018. NewDay carried out credit checks. As Mr B passed their lending criteria they gave him a credit card with a credit limit of £900.

Within the following year NewDay increased Mr B's credit limit three times resulting in an overall limit of £4,000 by February 2019. Mr B found it difficult to make the repayments on this and other credit cards. During the same period the overdraft he had with his bank had also grown substantially.

NewDay didn't believe they'd done anything wrong. Mr B met their lending criteria and they'd undertaken checks when assessing whether to increase his credit limits.

Mr B brought his complaint to the ombudsman service.

Our investigator believed NewDay had not done enough to show Mr B should have been given a credit card. He asked them to write off all interest and fees Mr B had been charged over the period he'd had this card and offset this against what had been paid by Mr B. If this resulted in Mr B having overpaid, then money should be refunded to Mr B along with 8% simple interest a year.

NewDay didn't agree to this outcome. They believed there'd been no indication that Mr B could fall into financial difficulties. Mr B's complaint has been referred to an ombudsman for 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.

Having done so, I've come to a slightly different conclusion to our investigator. I'll explain why.

I'm aware that I've summarised this complaint above in far less detail than Mr B and NewDay. I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

To help me reach this decision, I've considered evidence provided to us by NewDay and Mr B. I've also noted the detail in our investigator's view of 7 March 2022 but feel no need to rerun some of the arguments made there. Specifically, NewDay will be aware of their obligations under the FCA about assessing affordability and a customer's ability to repay.

I will, of course, refer to those aspects which drive the decision I'm making.

Firstly, I have to say NewDay's response to our investigator's view that there were "*no indication of financial strain*" rather stretches credibility. At a minimum NewDay has admitted Mr B was in default on a range of debts totalling £3,300 at the time the credit card was initially granted.

NewDay checked Mr B's income but didn't feel the existing default data should lead them to carry out any further checks. As our investigator showed, Mr B's income was mostly fully committed at the time the credit card was granted. I appreciate that it's unlikely a credit card provider would necessarily check bank statements. Therefore NewDay would be unaware of Mr B's regular monthly spending on gambling which was up to £200.

It is fair that different credit card lenders adopt their own lending criteria and decide what level of risk they're prepared to accept as a lender. However, the risk of this is that they accept a customer with outstanding debts, like Mr B, and debts may become unaffordable.

I can see from the credit card statements Mr B most recently provided, that he was initially making full or substantial repayments right from the start. So I can see immediately why on the basis of this card alone, why NewDay may have wished to increase Mr B's credit limit,

I can see NewDay carried out checks when these credit limit increases were applied, I can't see they took notice of what these were showing.

The evidence shows Mr B was increasingly reliant on credit. This included his bank overdraft which increased from £500 to £2,750 over the same period before NewDay increased Mr B's credit limit to £2,400. At no stage did NewDay wonder why this may be the case or note the likelihood that Mr B would be repaying his spending on this card by using other borrowing. That's seen as an indication of unaffordability.

This didn't alert NewDay to carry out any additional checks on Mr B's affordability. By February 2019 when NewDay increased Mr B's credit limit for the third time, Mr B was only making boosted minimum repayments to his credit card balance.

Based on what I've seen, I don't believe the initial credit card application was unaffordable. Mr B's credit limit was set at £900 and his repayments met his outgoings.

However things did escalate as his credit limit was increased about three-fold to £2,400 just three months after Mr B took out the card. These and subsequent increases I do believe were unaffordable.

### **Putting things right**

As I don't believe there's sufficient evidence to show the credit limit increases were affordable, I'm going to ask NewDay to put things right. This is a slightly amended outcome to the one proposed by our investigator. I have already confirmed this to Mr B who has

raised no objection. Partly I suspect as he paid no interest or charges until September 2018.

The first credit limit was applied on 22 May 2018. From that date NewDay will have to refund all interest and charges. That total can firstly be applied to offset Mr B's current debt. If this means that Mr B has overpaid, then NewDay must refund that amount to Mr B, along with 8% simple interest a year.

NewDay has already referred Mr B's debt to a debt recovery company so will also have to ensure this third party are aware of this decision. If there remains an outstanding balance for Mr B to repay, I see no reason for his existing repayment plan to change.

### **My final decision**

For the reasons I've given, my final decision is to instruct NewDay Ltd to:

- Refund all interest and charges applied to Mr B's credit card account from 22 May 2018 to date:
- Reduce the outstanding balance by that amount; and
- Repay any overpayment to Mr B along with 8% simple interest to that amount from the date it was applied to the date of settlement

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 September 2022.

Sandra Quinn  
**Ombudsman**