DRN-3449484

The complaint

Mr T complains that NewDay Ltd have irresponsibly lent to him.

What happened

Mr T was approved for two NewDay credit cards which I will refer to as A and B. NewDay increased the credit limits on both cards, which I have detailed below.

Card A – approved April 2015, with an initial £250 credit limit:

July 2015	£250 to £550
April 2016	£550 to £700
December 2016	£700 to £1,100

Card B – approved June 2016, with an initial £300 credit limit:

October 2016	£300 to £700

Mr T complained that NewDay had irresponsibly lent to him. He said he was already struggling with payday loans and external lending when NewDay increased his credit limits. NewDay did not uphold Mr T's complaint.

NewDay said that when Mr T applied for A, Mr T had declared an income of £17,500, other household income of £17,500 and unsecured debt of £100. They said that while there were defaults showing on his credit file, the latest default had happened 31 months prior to his application.

NewDay said when Mr T applied for B, he had declared an income of £21,000 and unsecured debt of £2,100. His last default was showing as 46 months old. NewDay said Mr T's accounts were sold to a third party debt management company in April 2018. Mr T brought his complaint to our service.

Our investigator upheld Mr T's complaint. He said that the lending for A was affordable for the initial credit limit and the first increase to £550, but the increase to £700 should have raised further checks as Mr T's credit limit had nearly trebled from account opening. Our investigator said Mr T was either around his credit limit or over his credit limit most months on A.

Our investigator said if further checks had been completed based on this and Mr T's previous poor credit history (his defaults), then NewDay would have seen that Mr T had taken three payday/short term loans within six months of the increase and two loans within three months of the increase.

Our investigator said that the numerous borrowings Mr T was opening may be indicative of someone suffering financial difficulties. So as NewDay would be aware of these issues if they did further checking, then the decision to approve B should not have taken place. Our investigator said that NewDay should refund any charges and interest Mr T had on A from

April 2016 and from the opening of B, to reduce the outstanding balance if there was one.

He also said that if this results in a positive balance then the positive balance should be paid to Mr T with 8% simple interest added to this balance. He also said that NewDay should remove any adverse lending NewDay recorded on Mr T's credit file.

NewDay asked for an Ombudsman to review the complaint. They said that while two payday loans were showing prior to the increase in April 2016, these accounts were in good standing, so they didn't feel this would have a bearing on their decision to increase the credit limit as they don't decline people for credit based on the number of payday loans they've had in the past, but they would consider if Mr T had defaulted on payday loans in the past 12 months or if he was in arrears on the payday loans in the previous six months.

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.

Before agreeing to approve or increase the credit available to Mr T, 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. I've listed below what checks NewDay have done and whether I'm persuaded these checks were proportionate.

Acceptance for A - initial credit limit:

I've looked at what checks NewDay said they did when initially approving Mr T's application for A. I'll address the credit limit increases later on. NewDay said they looked at information provided by credit reference agencies and information that Mr T had provided before approving his application.

I'm satisfied that the account opening checks were proportionate. I say this as the information showed that Mr T had external borrowings of only £100 when he was approved for A. Mr T had declared annual income of £17,500 at the time, so it would appear that the initial credit limit may be affordable for Mr T as the initial credit limit was only £250.

But that's not all NewDay's data showed. The data also showed that Mr T had adverse credit data in the form of four defaults. So NewDay would have been aware that Mr T had previously not maintained his agreements – on more than one occasion. But the data also showed he had no accounts in arrears, no repayment plans and that the adverse credit data was over two and a half years old.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing. Here, NewDay considered the information that Mr T had on his credit history and still made a decision to lend which, in the circumstances, I think was reasonable.

July 2015 credit limit increase for A - £250 to £550

I've looked at the information that NewDay had available to them when they increased Mr T's credit limit. I can see that Mr T had incurred a overlimit charge early on when A had been approved. This may suggest that Mr T may not be managing his credit limit effectively here.

So I've looked at the data NewDay had around the time to get a broader sense of how Mr T was managing his finances prior to his credit limit being increased.

The data shows that Mr T's external debt is very low. There were no external accounts he had here showing arrears, there were no new defaults or new adverse credit information showing against his credit file. As the decision to increase Mr T's credit limit was made only three months after they accepted his application, then little appears to have changed during this period. So I am persuaded that despite the overlimit charge, the increase from £250 to £550 would be affordable and sustainable at this time, therefore I'm satisfied the checks that NewDay made prior to increasing Mr T's credit limit here were proportionate.

April 2016 credit limit increase for A - £550 to £700

I've looked at the information that NewDay had available to them when they increased Mr T's credit limit, after he asked them to. I can see that since the last increase, Mr T had incurred an overlimit charge on four occasions in the nine month period. Although the data was limited previously, given the timeframe from account opening to the credit limit increase, this may suggest that Mr T may not be managing his credit limit effectively here.

Although he hadn't exceeded his credit limit in the two months prior to the increase, this is still a worrying trend. So I've looked at the data NewDay had around the time to get a broader sense of how Mr T was managing his finances prior to his credit limit being increased.

NewDay's data shows that the month prior to the increase, Mr T had two payday loans. And both of these had been opened in the prior three months. While this on its own may not suggest a modest credit limit increase might be unaffordable, I'm persuaded that a combination of factors such as the new credit limit being nearly treble the initial limit, the overlimit fees, the four previous defaults Mr T had (for relatively small amounts – the total of the four defaults was £1,800) and the two payday loans should have prompted NewDay to carry out further checks as part of a proportionate measure when increasing the credit limit – especially as Mr T was himself asking for a higher credit limit this time. As this suggests despite the recent payday loans, he was still struggling to manage his finances.

So I asked Mr T if he could provide his credit file to see if this gave an indication of any financial difficulties. This shows that from December 2015 to 8 April 2016, that Mr T had opened at least ten short term loans/payday loans (four in December 2015, one in January 2016, one in February 2016, two in March 2016 and two in early April 2016), before Mr T asked NewDay to increase his credit limit later in April 2016.

I'm persuaded that this shows Mr T was under a lot of financial difficulty to keep taking these loans to make ends meet and if NewDay had looked closer into Mr T's credit file as part of a proportionate check, based on the aforementioned factors, then they would have realised that even a modest increase to A's credit limit would not have been affordable for him. I'm persuaded that for these factors, NewDay should not have increased the limit on A to £700.

Acceptance for B - initial credit limit:

I've looked at what checks NewDay said they did when initially approving Mr T's application for B. NewDay said they looked at information provided by credit reference agencies and information that Mr T had provided before approving his application.

But I'm not satisfied that the account opening checks were proportionate here. I say this as the information showed that in the 14 months since Mr T had opened A, Mr T had gone from having three accounts to eight accounts. The underwriting comments on the application *state that he has a high indebtedness – and I agree with this. Mr T had shown by this point (as covered off under A's credit limit increase) a high reliance on short term borrowings.*

As I mentioned previously, due to a number of factors, I'm persuaded that as part of a proportionate check, that NewDay should have looked into Mr T's credit file in a lot more detail to see how Mr T was obtaining credit and how often. Mr T had taken a £3,500 loan out in May 2016 (so after the last credit limit increase on A and two months prior to this application). But even though Mr T took this loan out in May 2016, he was still relying on taking out short term loans. Mr T took out a further loan in June 2016.

So in the six month period from December 2015, to when Mr T had been accepted for B, he had taken out at least 12 forms of credit (which would average out at two a month). This should be a clear indicator that Mr T was experiencing financial difficulty and I'm persuaded that if NewDay had seen this information, then they shouldn't have approved B for Mr T.

October 2016 credit limit increase for B - £300 to £700 and December 2016 credit increase for A - £700 to £1,100

As I'm persuaded that B should not have been opened, then I'm satisfied that the credit limit for B wouldn't have happened if B wasn't opened. But I've still looked at Mr T's financial circumstances from when he was accepted for B to October 2016.

Mr T had taken out another loan in July 2016 and he also opened a new credit card with a third party provider, from when B was opened to when NewDay increased his credit limit on B for the last time. NewDay's affordability data for B, shows that Mr T went from having £2,199 in credit card total balances in August 2016 to £7,240 in just one month – September 2016 – the month prior to NewDay more than doubling B's credit limit.

I'm satisfied that based on the factors of why A's credit limit increase to £700 and B's acceptance was not affordable or sustainable for Mr T, then this increase would put Mr T in an even worse position as his credit card balances in total had more than trebled in the month prior to his limit being increased.

In December 2016, as the credit limit increase for A was increased by more than 50%, only just two months after B's credit limit had more than doubled – and within three months of his credit card total balances more than trebling, then I'm also satisfied that this should not have been approved for the previous reasons. Mr T also incurred an overlimit charge on B in the month prior to December's credit limit increase for A, which indicates further problems maintaining credit. So it follows, I intend to ask NewDay to put things right for Mr T."

I invited both parties to let me have any further submissions before I reached a final decision. Mr T accepted my provisional decision. NewDay said they had no further information to add 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 neither party have provided 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 intend to ask NewDay Ltd to buy back the debt from the debt management company they sold Mr T's debt to and contact him to put in place an affordable repayment plan;

Rework the account for A, refunding all interest and charges that have been applied to any balances above £550. They should also refund all interest and charges applied from the date B was opened to the date of settlement;

If this results in a credit balance, refund that credit balance to Mr T, and add 8% simple interest per year from the date the credit card would have first gone into a credit balance to the date of settlement;

Remove any adverse entries on Mr T's credit file relating to his NewDay credit cards and ask the third party debt management company to do the same.

I'm still satisfied this is a fair outcome for the reasons given previously.

My final decision

I uphold the complaint. NewDay Ltd should settle the complaint in line with the instructions in the *"putting things right"* section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 24 May 2022.

Gregory Sloanes
Ombudsman