

The complaint

Ms W complains that NewDay Ltd lent to her irresponsibly.

What happened

In April 2020 Ms W opened a credit card account with NewDay. She had an account limit of £600 which was increased three times over the life of the account to date. A fourth increase was offered in November 2021 but withdrawn by NewDay when the complaint was received. Ms W says that NewDay shouldn't have lent to her because she couldn't afford it. She says if NewDay had done checks on her which it should have done it would have realised she had a lot of debt.

NewDay says that it did all the necessary and proportionate checks and these showed that Ms W could afford the credit that was extended to her.

Our adjudicator thought that NewDay shouldn't have lent to Ms W. They thought Ms W was so indebted elsewhere that NewDay should have realised she would struggle with any more debt. Our adjudicator said that NewDay should refund any interest and charges paid by Ms W.

NewDay disagreed. It pointed out that Ms W managed her account both with it and other lenders well and that she had not ever been in arrears.

As NewDay disagreed, the case has been passed to me to make a 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.

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We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considered Ms W's complaint.

NewDay needed to take reasonable steps to ensure it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Ms W could afford to repay what she was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts, Ms W's borrowing history and her income and expenditure.

NewDay says its credit check results didn't show anything negative to suggest it would have been unreasonable to have provided Ms W with the credit. It says it asked her about her

income and it also had information about other credit she had elsewhere and that none of this cause concern. It points also to the fact Ms W managed her account well and did not incur any fees or charges at any point.

However, I think that the results of NewDay's checks should have been a cause for concern. Ms W told NewDay that she earned only around £1145 net a month, with accommodation and living expense costs of £600 a month in total. Credit checks showed that Ms W had £13,000 in other unsecured debt – more than her entire gross annual income.

While NewDay noted that Ms W had nine active credit accounts it noted no defaults or arrears, no payday loans and no CCJs it did not know how Ms W's unsecured debt was structured. Information provided by Ms W shows that she had six revolving credit type accounts and three catalogue/home shopping accounts. The NewDay card added a further line of credit. Taking only the revolving credit accounts into account, sustainable monthly repayments at 5% would have left Ms W with nothing each month.

So while NewDay's check may have been proportionate I think it should have sought a better understanding of her financial situation before lending to her. It should have queried how she was meeting her existing credit costs from her limited income. I think it should have been evident to NewDay that Ms W wouldn't have had the capacity to sustainably repay the new account. It follows that I agree with our adjudicator that NewDay was wrong to lend to Ms W.

Putting things right

As I don't think NewDay ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I think Ms W should pay back the amounts she has borrowed. Therefore, NewDay should:

- Rework the account removing all interest and charges that have been applied.
- If the rework results in a credit balance, this should be refunded to Ms W along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove all adverse information regarding this account from Ms W's credit file.
- Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Ms W for the remaining amount. Once Ms W has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Ms W a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

I uphold Ms W's complaint and direct NewDay Ltd to pay compensation as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 18 July 2022.

Sally Allbeury
Ombudsman

