

The complaint

Ms C says NewDay Ltd ('NewDay') irresponsibly lent to her.

What happened

This complaint is about a credit card account NewDay provided. The account was opened in November 2015. Ms C was given an initial credit limit of £450. This limit was increased three times until it eventually reached £2,150 in August 2018.

Our adjudicator partially upheld Ms C's complaint and thought that NewDay ought to have realised Ms C simply wasn't in a position to sustainably repay any further credit by the time it offered the increase to her credit limit of £1,550 in August 2016. NewDay disagreed with our adjudicator, so the complaint has passed to me for 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.

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.

NewDay needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Ms C 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 and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that NewDay should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);

- the *greater* the frequency of borrowing, and the longer the period of time during which a customer has been indebted (reflecting the risk that prolonged indebtedness may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Our adjudicator thought that the early increases to the credit limit on the account were not examples of irresponsible lending. Both parties have seen that assessment and Ms C has not raised any objection to those findings. I have reviewed the case in its entirety and have reached the same outcome as the adjudicator and for the same reasons. I haven't seen anything to make me think NewDay should have been concerned about Ms C's ability to afford the limits given before the increase in August 2016. In the absence of any argument about that I will turn to the increase of August 2016.

Our adjudicator set out in some detail why he thought NewDay shouldn't have provided Ms C with any further credit from August 2016 onwards. Our adjudicator noted that the credit check NewDay completed showed Ms C had a significant amount of credit commitments at that time - Ms C owed around £6,788 to other creditors. Sustainable monthly repayments towards these debts took up a significant proportion of Ms C's income. And I have noted that in the eight months before the lending decision in August 2016, Ms C had incurred late, cash or overlimit fees in five of those eight months. And in three of those months, Ms C had incurred more than one fee in that particular month.

And I've noted that Ms C raced to her credit limit for each of the two previous credit limits. And Ms C seemed to have made little or no headway in reducing those balances.

So, the overall pattern of NewDay's lending history with Ms C suggests this alone may have shown a cause for concern that Ms C could not afford to repay what she was being lent in a sustainable manner. And I think this information alone should have been sufficient to alert NewDay that there was a point at which they should reasonably have seen that further lending was unsustainable, or otherwise harmful such that they shouldn't have increased Ms C's credit limits.

I also think there was a significant risk that further increases to her credit limits could have led to her indebtedness increasing unsustainably, such that she had no funds available to meet her regular outgoings.

It follows that I think that Ms C lost out because NewDay provided her with further credit from 29 4 August 2016 onwards. In my view, NewDay's actions unfairly prolonged Ms C's indebtedness by allowing her to use credit she couldn't afford over an extended period of time and the interest being added would only have the effect of putting her into further debt.

It follows that NewDay should put things right.

Putting things right

Please note that Ms C's IVA Practitioner has confirmed the full amount of any redress should go to the IVA. NewDay should:

- Rework Ms C's account to ensure that from 4 August 2016 onwards interest is only charged on balances up to the total credit limit of £650, including any buy

now pay later interest, (being the credit limit in place before that date) to reflect the fact that no further credit limit increases should have been provided. All late payment and over limit fees should also be removed; and

- If an outstanding balance remains on the account once these adjustments have been made NewDay should contact Ms C to arrange an affordable repayment plan for this account. Once Ms C has repaid the outstanding balance, it should remove any adverse information recorded on Ms C's credit file from 4 August 2016 onwards for each account.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Ms C's IVA Practitioner, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. NewDay should also remove any adverse information from Ms C's credit file from 4 August 2016 onwards.†

†HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Ms C a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons set out, I'm partially upholding Ms C's complaint. NewDay & Company Limited should put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 17 August 2022.

Douglas Sayers
Ombudsman