

The complaint

Mr R complains that NewDay Ltd ("NewDay"), trading as Marbles, irresponsibly granted him credit that he couldn't afford to repay.

What happened

NewDay approved a credit card application for Mr R in April 2016. They initially provided a credit limit of £900 but the limit was increased in August 2016 to £1,800, January 2017 to £2,400, May 2017 to £3,650, and finally in October 2017 to £4,650.

Mr R says NewDay were wrong to provide credit as it wasn't affordable for him.

NewDay disagree. They say that when they approved the credit card application they reviewed Mr R's credit file and found he had no arrears or defaults. They said there was only £2,900 of unsecured debt and two public records that didn't give them cause to consider the initial lending was unaffordable. And when NewDay increased the credit limit on the account they said that on each occasion they had reviewed Mr R's account performance and his credit file and had also found the credit affordable.

Our investigator thought that NewDay shouldn't have provided the credit card in the first place and suggested NewDay should take some action to remedy the situation. But as NewDay didn't respond to her assessment the complaint has been referred to me, an ombudsman, for a final 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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering what's fair and reasonable in the circumstances of this complaint.

Account opening

I think NewDay completed proportionate checks before approving the credit card. They reviewed Mr R's credit file and gathered some information from him about his income and circumstances.

Those checks revealed that Mr R had two County Court Judgments against him 53 months earlier and still owed £9,200 towards those judgements. I think that information alone was sufficient to suggest that Mr R was unlikely to be able to sustainably afford the credit NewDay were offering and on that basis NewDay should have rejected the application.

The credit file also showed that Mr R was borrowing from pay day lenders at the time of his application and that would have been further corroboration that he was struggling financially, and the lending wasn't affordable.

The subsequent limit increases

As I don't think NewDay should have provided the card in the first place I think it's unlikely the subsequent credit limit increases would have been affordable either. That credit simply added to Mr R's indebtedness and I've not seen evidence to suggest NewDay had information that Mr R's financial circumstances had significantly and sustainably improved. So, I think those limit increases were also irresponsibly made and the additional credit was unaffordable for Mr R.

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 Mr R should pay back the amount he has borrowed. The system notes provided by NewDay suggest the account was closed in 2018. so, NewDay should:

- Refund all interest, fees, charges, and insurances and add 8% simple interest per year* calculated from the date of each overpayment to the date of settlement.
- Remove any adverse information they may have reported to Mr R's credit file in relation to this account.

*If HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Mr R a certificate showing how much tax has been taken off if he 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 this complaint and direct NewDay Ltd to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 27 September 2022.

Phillip McMahon
Ombudsman