

## The complaint

Mr L has complained that NewDay Ltd have given him credit limit increases without checking whether they were affordable and have not taken into account his financial difficulties after he told them.

## What happened

Mr L is self-employed. He held two accounts with NewDay. The first was a credit card which he applied for in November 2013. The second was a store card which NewDay acquired from another lender in August 2014.

The credit card had seven credit limit increases and I have detailed these below in a table for ease.

	Date of increase	Credit limit
Initial application	May 2013	£500
Increase 1	February 2014	£1200
Increase 2	June 2014	£1800
Increase 3	October 2014	£2800
Increase 4	February 2015	£4050
Increase 5	July 2015	£5300
Increase 6	January 2016	£6900
Increase 7	June 2016	£8000

Mr L says that the limit on this card should never have been increased beyond £1800 as he is self-employed, he had other credit, and the limit was automatically increased regularly when he was only making the minimum payments which made the increased lending unsustainable.

The store card was opened in 2008 and there was only one credit increase on this offered by NewDay which was from £1250 to £1750 in May 2015.

Mr L has also complained that he informed NewDay of his financial difficulties in November 2016 but after that they still added further interest .

In their response to his complaint, NewDay agreed that the credit limit increase given on the credit card in January 2016 wasn't suitable for him and agreed to refund the fees and proportionate interest from January 2016 totalling £204.94.

In relation to the store card they said that they weren't responsible for the initial lending decision as this was an account transferred from another lender, and that before the credit increase given by them in May 2015 there was no over the limit fees, late fees, or cash advances, and that although there was evidence of three months arrears on another account in March 2015, this had been cleared prior to the credit increase in May.

Mr L was unhappy with this response, and so he brought his complaint to us.

One of our investigators looked into Mr L's complaint and she thought that New Day had lent irresponsibly on the credit card from the lending decision in October 2014 and so she upheld Mr L's complaint.

NewDay disagreed with the investigator and asked for an ombudsman's decision, and so the case came to me to review.

I issued a provisional decision on the complaint. My provisional findings were as follows:  
*In cases like this, where a consumer has raised an issue about affordability of the lending, I have to look at whether, at the time that the application was made, the lender completed borrower-focused checks which were reasonable and proportionate in accordance with the rules in force at the time. As in this case that spans a long period of time, I have considered the rules in the Office of Fair Trading Irresponsible Lending Guidance (OFT ILG) for before April 2014, Consumer Credit Sourcebook (CONC) 5.2 for before November 2018 and CONC 5.2A from November 2018. These rules require that the lender needs to be satisfied that the borrower could afford the credit and sustain the repayments. That includes looking at what information it asked for, and any other information that was available at the time, and whether there was anything that should have alerted the lender to a need to make any extra enquiries. In other words, was the decision to offer credit made reasonably and fairly and all appropriate information sought and considered?*

### **The credit card**

*In this case, there were eight lending decisions made at different times. I have taken into account the different circumstances at the time of each lending decision and explained why I think from October 2014 NewDay have lent irresponsibly.*

### **The original lending decision**

*When he applied for the card, Mr L declared an income of £30000, other household income of £57000, and an unsecured debt of £480. He was co habiting and at the time and his credit record showed that he had no defaults recorded, no adverse public records, no account arrears, no payday loans, and five active accounts. I am satisfied that when the original lending decision was made, the checks undertaken were proportionate as the information available didn't suggest any reason to look further.*

### **Increase 1 - £1200 - February 2014**

*At the time the credit increase was given in February 2014, Mr L's statements show that he was using his credit card for general spending. He was making his payments on time, there were no late charges, and no cash advances and he was only using less than half of his available borrowing. The credit report doesn't show any indications of financial difficulties and so I'm satisfied that there was no need for NewDay to undertake any additional checks.*

### **Increase 2 - £1800 - June 2014**

*In the period March to June 2014 there were signs that Mr L was experiencing financial difficulties. There was a late payment charge in March 2014 and two cash advances, one in March and one in April.*

*At the time the increase was granted Mr L only had £127.26 available balance and was making little over the minimum payments. As the previous history was good, this could have been a short term issue, and so while I don't think there was necessarily any need to undertake further checks at this time, NewDay should have been alert from this point onwards for any further deterioration in Mr L's financial position.*

#### **Increase 3 – £2800 - October 2014**

*By October 2014 Mr L was showing signs in his account behaviour of being in financial difficulty. Mr L had almost all of his last credit increase in the month after it was given in June 2014. This spending appeared to be normal daily living expenses and there were additional cash advances. Repayments were being made on time, but were only just over the minimum payment, increasing his debt quite rapidly.*

*Mr L's credit report for the month prior to the increase also shows a change, with his worst status changing from 0 to 1 which also shows signs of financial difficulty.*

*As this credit increase was the biggest offered so far, and bearing in mind the recent account history, I think NewDay should have looked at Mr L's position more carefully and undertaken additional enquiries and checks before this increase. They had a responsibility to ensure that this new increase was affordable for Mr L and it was a year since their original lending decision had been made, during which time it appeared things had changed.*

#### **Increase 4 - £4050 – February 2015**

*This increase was only four months after the previous one and is an increase of £1250. In the intervening four months I can see that the credit given in the last increase has been utilised for food shopping and some large cash advances of £300 and £200, and the limit of £2800 was almost reached by the end of December. Repayments had continued to be only just over the minimum, so Mr L wasn't making any impact on his increasing debt.*

*Mr L's credit report in February 2015 shows a further worsening of status to 2 which shows he was struggling to meet existing commitments.*

*I think that a further increase at this point without making further enquiries and checks was irresponsible.*

#### **Increases 5, 6 and 7**

*As I already consider the last two increases to have been irresponsible, it follows that any subsequent lending should also have necessitated additional checks, and NewDay have accepted that from increase 6 they should have been doing so. On reviewing Mr L's statements and credit history, I can see nothing which indicates an improving picture. Having considered all of this, I think NewDay have failed in their obligations to assess creditworthiness in accordance with CONC 5.2.1. from the October 2014 increase onwards. I think that on balance, the information that was available should have indicated further checks were necessary, and had those checks been undertaken, NewDay should have realised that increasing this customer's indebtedness would adversely affect his financial situation, and his ability to repay the debt.*

#### **The store card**

*The original sale of this card was through another lender, and NewDay don't have the records about what information was used when the original lending was agreed. In addition, I have*

*not seen any evidence to suggest that when the card was taken out in 2008, there was any indication of financial difficulty.*

*So, I have only looked at the automated credit limit increase that NewDay gave to Mr L in May 2015 from £1250 to £1750. NewDay have advised us that Mr L was notified of the credit limit increase in May 2015 with an option to opt out of the increase in 40 days, but he didn't do so.*

*They have told us that they no longer hold the statements for this account and the account was sold to debt collection agents in September 2017 with an outstanding balance of £1443.42 after no payments had been made for six months.*

*NewDay have provided me with a spreadsheet which tells me the account and credit information that was available to them at the time, and I have also taken into account the information they held on Mr L's credit card account which I have detailed above, as this was information readily available to them.*

*This information shows that at the time that the credit increase was given, Mr L had been within £100 of his credit limit of £1250 for at least the previous nine months. He was making minimal payments of £50 per month, but these were not making any significant impact on the overall level of debt on this card because of interest and continued expenditure.*

*The credit file information available showed that in March 2015, Mr L was three months in arrears on another credit account and had been up to two months arrears previously in the past 12 months. He did clear the arrears in April but he still had 8 active accounts – increased from 6 at the end of 2014.*

*NewDay have told us that this doesn't raise any issues of concern. However, I disagree, as I think that this combined with the information that they held on his credit card expenditure by May 2015 – which I have detailed above - should have indicated that further checks needed to be undertaken before increasing his credit limit. I don't think the checks undertaken were sufficient and in line with the requirements of CONC, and I think if they had undertaken additional checks, they would not have increased this credit limit.*

### **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.

I sent Mr L and NewDay a copy of my provisional decision.

NewDay have accepted and agreed with the provisional decision, but Mr L has not responded, and so I'm making my final decision for the reasons above.

### **Putting things right**

In view of the reasoning I have given above, I direct that NewDay do the following:

- On the credit card, NewDay should refund Mr L all interest and charges from the date of the credit limit increase in October 2014 for balances above £1800.
- On the store card, NewDay should refund Mr L all interest and charges from the date of the credit increase in May 2015 to the date the debt was sold, for balances above £1250.

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**My final decision**

I'm upholding Mr L's complaint and directing that NewDay Ltd should put things right as detailed above

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 1 August 2022.

Joanne Ward  
**Ombudsman**