

The complaint

Mr P complains that NewDay Ltd has irresponsibly lent to him.

Mr P is represented by a claims management company in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Mr P himself.

What happened

Mr P was approved for two NewDay credit cards which I will refer to as A and B. I have detailed the initial credit limits and the credit increases for A below.

Card A – approved July 2016, with an initial £450 credit limit:

November 2016	£450 to £650
March 2017	£650 to £1,600

Card B – approved January 2018, with an initial £300 credit limit:

Mr P complained that NewDay had irresponsibly lent to him. NewDay said that when Mr P applied for A, Mr P had declared an income of £36,000, access to other household income of £1,600 and unsecured debt of £6,800. They said that there were no defaults, no County Court Judgements (CCJ's), no payday loans and no accounts in arrears.

NewDay said when Mr P applied for B, he had declared an income of £38,700, access to other household income of £20,000 and unsecured debt of £12,500. Mr P brought his complaint to our service.

Our investigator partially upheld Mr P's complaint. She said that a fair lending decision was made for the approval of A, but the credit limit increases on A and the approval of B showed that it would be unlikely for Mr P to be able to make his repayments sustainably over a reasonable period.

Our investigator said that NewDay should refund all of the interest and charges Mr P paid on A from November 2016 to present. She said they should also refund all of the interest and charges on B. Our investigator said if the borrowing is still in place, NewDay should reduce the outstanding capital balance for both accounts by the refunding of the interest and charges and ensure it isn't subject to any historic or future interest and charges, but if this resulted in a positive balance then this positive balance should be repaid to Mr P with 8% simple interest. She added that NewDay should remove any adverse information recorded on Mr P's credit file for his NewDay cards.

NewDay asked for an Ombudsman to review the complaint. They said that the fact that Mr P made minimum payments to his account was not an indication of financial difficulties. NewDay said that Mr P did not struggle with his credit limit of £650 as he did not exceed it. NewDay said the credit limit for B was relatively low (£300) and this did not increase.

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 P, 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 P'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 P had provided before approving his application.

I'm persuaded that the account opening checks were proportionate. I say this as the information showed that while Mr P had total unsecured borrowings at the time of £6,800, he also had a gross salary of £36,000.

But that's not all NewDay's data showed. The data also showed that Mr P had no adverse information recorded on his credit file such as defaults, arrears, or repayment plans. It also showed Mr P had no payday loans. So I'm satisfied that the checks NewDay carried out here, prior to approving the relatively modest initial £450 credit limit was proportionate and that NewDay made a fair lending decision to approve Mr P's application for A.

November 2016 credit limit increase for A - £450 to £650

I've looked at the information that NewDay had available to them when they increased Mr P's credit limit. The increase here was relatively low – an extra £200. This increase was only four months after NewDay had initially accepted his application. I can see that Mr P had incurred a late payment charge just two months before the credit limit was increased. This may suggest that Mr P may not be managing his finances effectively here. So I've looked at the data NewDay had around the time to get a broader sense of how Mr P was managing his finances prior to his credit limit being increased.

The data appears to show that Mr P had made five cash transactions in the initial three months that his account was open. While Mr P would be free to use his account as he wishes and this alone may not be any sign of financial difficulty, it could be masking an affordability issue. I say this as it is not clear why Mr P would choose to incur £16.50 in cash transaction charges if he had money in his bank account which wouldn't cost him to use.

In addition, on the application data, Mr P is shown as having £6,800 unsecured debt. But in the month prior to Mr P's credit limit being increased, his unsecured debt total had risen to £7,928 as shown by NewDay's data. So Mr P had accrued more than £1,000 unsecured debt since his application for A was approved. This could suggest that Mr P was hungry for credit. As he had more debt than before, it would also likely cost him more to service the debt. Mr P was only paying roughly the minimum payment to A. So this could suggest he may not be able to repay more and therefore he might not be able to repay any increases in the credit limit to A in a sustainable way.

So, I would have expected NewDay, as part of a proportionate check, based on the reasons I've given, to ask for further information from Mr P to ensure that a £650 credit limit would be affordable and sustainable for him. They could have done this by contacting Mr P to discuss his personal circumstances at the time, or they could have asked for information about his income and outgoings, such as requesting his recent bank statements, to see whether the credit limit would be sustainable and affordable for Mr P.

So I asked Mr P if he could provide his bank statements for the time period before the credit limit on A was increased, as I'm persuaded this is something that NewDay could have done as part of a proportionate check to see if the credit limit increase would be affordable for him and to ensure he could make payments in a sustainable manner based on the reasons I've already mentioned.

Mr P has provided his bank statements so we could see how he managed his money at the time. I've looked at the three month's bank statements prior to the credit limit increase, as I'm persuaded that NewDay could have requested these, as part of a proportionate check. Mr P's bank statements show that while Mr P incurred a charge in August 2016 for an unpaid standing order, he does appear to be managing his finances well in general and is not close to a zero balance in his account for the majority of the three month period before his credit limit was increased by £200.

So while I'm persuaded that NewDay should have made further checks, based on the information they had, I'm satisfied that if they made these checks, they still would have made a fair lending decision to approve the £650 credit limit here.

March 2017 credit limit increase for A - £650 to £1,600

I've looked at the information that NewDay had available to them when they increased Mr P's credit limit. The new credit limit was more than double his previous credit limit – an extra £950. This increase was again only four months after NewDay had initially accepted his application. So I've looked at the data NewDay had around the time to get a broader sense of how Mr P was managing his finances prior to his credit limit being increased.

The data shows that in the month prior to Mr P's credit limit being increased, his unsecured debt total was £8,485 as shown by NewDay's data, compared to £7,928 in the month prior to his previous credit limit increase. So Mr P had accrued more than £500 unsecured debt since his last credit limit increase and £1,685 extra since his application for A was approved. This could suggest that Mr P was on a trend of using more credit as opposed to be able to reduce his credit and repay his credit in a sustainable way.

As I previously mentioned, as he had more debt than before, it would also likely cost him more to service the debt. Mr P was still only paying roughly the minimum payment to A. So this could suggest he may not be able to repay more and therefore be able to repay the balance to A in a sustainable timeframe and the payments may not be affordable for him if the credit limit increased. Especially as his credit limit for A was roughly 1.5 times higher after this increase, which may indicate even the minimum payment required would be more than double what he was previously paying before the increase.

So, I would have expected NewDay, as part of a proportionate check, to ask for further information from Mr P to ensure that a £1,600 credit limit would be affordable and sustainable for him. They could have done this by contacting Mr P to discuss his personal circumstances at the time, or they could have asked for information about his income and outgoings, such as requesting his recent bank statements, to see whether the credit limit would be sustainable and affordable for Mr P.

Mr P again provided his bank statements so we could see how he managed his money in the three months prior to this credit increase. This time, Mr P's bank statements show he was not managing his finances well. In the three months prior to A's credit limit increasing, his statements show that he incurred charges for an unpaid direct debit, an unpaid standing order fee and he entered an unarranged overdraft on at least three occasions. This was not all in the space of a short period of time. This was over a couple of months when this happened.

So I'm persuaded that if NewDay had made proportionate further checks here, based on the information on Mr P's bank statements, that they wouldn't have increased his credit limit as this would not be affordable or sustainable for him based on his financial situation at the time, so he would not be able to manage an increase to his credit limit here.

Acceptance for B - initial credit limit:

I've looked at what checks NewDay said they did when initially approving Mr P's application for B. NewDay said they looked at information provided by credit reference agencies and information that Mr P had provided before approving his application.

The application data showed that Mr P had total unsecured borrowings at the time of £12,500 and a gross salary of £38,700. But that's not all NewDay's data showed. The data also showed that Mr P had no adverse information recorded on his credit file such as defaults, arrears, or repayment plans. It also showed Mr P had no payday loans. But NewDay had information about A which may suggest that even a modest opening credit limit of £300 for B would not be affordable or sustainable for Mr P and I'll explain why.

Since Mr P's credit limit on A was increased to £1,600, Mr P had incurred overlimit charges in six out of eight months prior to B being accepted. While NewDay may say that this was mainly because Mr P did not leave enough available credit for the monthly interest charges to be applied, I could understand if this happened sporadically. But it didn't. It happened for six consecutive months. Which could indicate Mr P was struggling to manage his finances efficiently.

In addition to this, Mr P's total unsecured debt, which NewDay had access to, showed that his unsecured debt had risen from the application data on A showing £6,800 to the application data on B showing total unsecured debt of £12,500. So the unsecured debt that Mr P took on in the 18 month period between being accepted for A (July 2016) and being accepted for B (January 2018) had nearly doubled.

As I mentioned in the section above, had NewDay made further checks which were proportionate to the level of credit given to him, based on the information NewDay had, then B should not have been accepted, as they had information that Mr P would be likely to be unable to take on any further credit and to be able to pay this in a sustainable or affordable way. I'm persuaded that if NewDay had seen this information, then they shouldn't have approved B for Mr P given the reasons I've mentioned above, in addition to the reasons why they shouldn't have increased the credit limit for A to £1,600. So it follows I intend to ask NewDay to put things right."

I invited both parties to let me have any further submissions before I reached a final decision. Mr P said he had nothing to add to the provisional decision. NewDay said they had nothing to add to the 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 uphold the complaint in part and I intend to require NewDay Ltd to do the following:

NewDay should arrange to transfer any debt back to themselves if it has been passed to a debt recovery agent.

Card A: NewDay should also rework the account, refunding all interest and charges that have been applied to any balances above £650. If the rework results in a credit balance, this should be refunded to Mr P 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 recorded from March 2017 regarding this account from Mr P's credit file.

Or, if after the rework the outstanding balance still exceeds £650, NewDay should arrange an affordable repayment plan with Mr P for the remaining amount. Once Mr P has cleared the outstanding balance, any adverse information recorded from March 2017 in relation to the account should be removed from his credit file.

Card B: 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 Mr P 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 Mr P's credit file.

Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Mr P for the remaining amount. Once Mr P has cleared the balance, any adverse information in relation to the account should be removed from his credit file.

**If NewDay considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr P how much they've taken off. They should also give Mr P a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

My final decision

I uphold this complaint in part. 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 P to accept or reject my decision before 29 August 2022.

Gregory Sloanes
Ombudsman