

The complaint

Mr P complains that NewDay Ltd (“NewDay”), trading as Fluid, irresponsibly granted him a Fluid credit card account that he couldn’t afford to repay.

What happened

Mr P entered into an agreement with NewDay to have access to credit with an account that was opened for him in October 2020 with an opening credit limit of £450. NewDay went on to give Mr P an increased credit limit of £1,450 in February 2021 and then a further increase to £2,700 in July 2021.

Mr P says NewDay didn’t complete adequate affordability checks when it opened the account and increased his credit limit. He says that had it done so, NewDay would have seen he had a history of financial difficulty.

NewDay offered to refund Mr P all interest and charges added to Mr P’s account from when it increased his credit limit in July 2021. Our adjudicator said this offer was fair but Mr P is unhappy about it.

The complaint has therefore come 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.

NewDay will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don’t consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

I’ll first look at the account opening to see if it was fair of NewDay to grant Mr P the initial account credit. I’ll then consider the offer NewDay has made.

Account opening

Before granting the new account, NewDay looked into Mr P’s financial situation. I think NewDay gathered a reasonable amount of evidence and information from Mr P about his ability to repay his account. This included completing a credit check with credit reference agencies. These checks showed he already had around £8,500 in unsecured borrowing and ongoing credit commitments. NewDay says that, based on that Mr P had met its acceptance criteria. However, just because it looks as if NewDay carried out proportionate checks, it doesn’t automatically mean it made a fair lending decision. So, I’ve thought about what the evidence and information showed.

I've also looked at the other information and evidence NewDay gathered, including from Mr P's initial application. Having done so, I'm satisfied that the checks that were completed showed that the agreement was likely to be affordable to Mr P. I say this given what I've seen about Mr P's financial history and the income he'd declared alongside the relatively low credit limit he'd been given. So I don't think NewDay acted unfairly when approving the finance application.

It follows that, having looked carefully at all the available evidence and information, I don't think I've seen evidence or information that shows NewDay was unfair in allowing Mr P to open the account and that regular, sustained payments on the account by him would be unaffordable. I can't reasonably conclude that at that point NewDay ought to have known he would struggle to make the repayments.

Is NewDay's offer fair?

Having looked at the terms of NewDay's offer to refund the interest and charges arising following the credit limit increase up to £2,700 in July 2021, I'm satisfied that this is consistent with how we'd expect businesses to compensate consumers in these cases. I see that Mr P started incurring successive late fees after his first credit limit increase, which suggests he was beginning to get into difficulty with managing his account. And I've seen that the credit reference agency data NewDay was using shows that his overall level of unsecured borrowing had increased significantly in the previous two months.

I've kept in mind all that Mr P has told us about his financial difficulties, including reviewing his credit report, but unfortunately this doesn't affect my finding that NewDay acted fairly in granting Mr P his account and that the offer it has made is fair. However, I note that Mr P recently agreed a payment holiday with NewDay which ended in June 2022. I would expect NewDay to continue to act with appropriate forbearance in seeking to assist Mr P in his efforts to find a fair and manageable way to pay back the balance that is still owing on his account.

Putting things right – what NewDay needs to do

As NewDay has agreed it shouldn't have increased Mr P's credit limit to £2,700, I don't think it's fair for it to charge any interest or charges on any balances which exceeded that limit. I am pleased to see that NewDay has already provided a breakdown of these sums and it says they have now been refunded.

To be clear, if it hasn't done so already, NewDay should:

- Rework the account removing all interest and charges that have been applied to balances above £1,450, being the previous credit limit.
- 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 after 21 July 2021 regarding this account from Mr P's credit file.
- Or, if after the rework the outstanding balance still exceeds £2,700 New Day 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 after 21 July 2021 in relation to the account should be removed from his credit file.

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

My final decision

I'm upholding Mr P's complaint in relation to the second credit limit increase and require NewDay Ltd to put things right in the way I've set out above if it hasn't done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 28 October 2022.

Michael Goldberg

Ombudsman