

The complaint

Mrs M complains that NewDay Ltd (“NewDay”) irresponsibly granted her three credit accounts that she couldn’t afford to repay.

What happened

Mrs M entered into agreements with NewDay to have access to credit with three separate credit card accounts. The first, a Marbles account, was opened for her in February 2017 with a credit limit of £600. The credit limit was then increased several times, reaching £5,000 in May 2019. The second account, with Debenhams, was opened for her in May 2019 with a credit limit of £1,000. The third account, with Amazon, was opened for her in October 2019 with a credit limit of £1,000.

Mrs M contacted NewDay in March 2020 and agreed payment plans for the Amazon and Debenhams accounts and in April 2020 agreed a payment plan for the Marbles account.

Mrs M says that NewDay didn’t complete adequate affordability checks when it opened each of these accounts. She says if it had, it would have seen that they weren’t affordable for her as she didn’t have enough income to make the repayments and was experiencing financial difficulties.

NewDay didn’t agree. It said that it carried out a reasonable and proportionate assessment to check Mrs M’s financial circumstances before granting her each of the accounts.

Our adjudicator recommended that the Marbles account be partially upheld and that Amazon account be upheld from opening. NewDay agreed that the Amazon account should not have been granted. But it didn’t agree that the Marbles account should be partially upheld.

The complaint has therefore been passed to me 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.

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.

Before granting each of these accounts, NewDay needed to look into Mrs M’s financial situation.

Marbles Account

Before opening the Marbles account, I think NewDay gathered a reasonable amount of evidence and information from Mrs M about her ability to repay. This included completing a credit check that gave an indication of her financial situation. This showed she had an annual income of around £26,000 and around £6,600 in unsecured borrowing. I note the checks showed that Mrs M had had two defaults in the past, the most recent of which was 55 months earlier. I'm satisfied that this default could be treated as historical and not something to prevent the new credit being granted. So from what I've seen, I think these checks look to have been proportionate.

I also think NewDay likely made a fair lending decision based on its checks, given Mrs M's annual income and the financial history it had seen. I've also kept in mind that the opening credit limit of £600 was relatively modest.

Looking at the credit limit increases on the Marbles account, I agree with our adjudicator that it would have been proportionate for NewDay to have taken steps to find out more about any changes to Mrs M's income, as well as the level of committed expenditure she had at that time. I say this especially having seen that the data available to NewDay at the time showed she owed around £6,600 in unsecured debt at the time she opened the account. I've noticed that she went on to rapidly use up the available opening credit limit and then the additional credit granted to her in the first two increases.

I don't disagree, as NewDay has pointed out, that Mrs M's overall unsecured debt remained at around the level of £10,500 from August 2017 up to the third credit limit increase in August 2018. But I've also noticed that during this period the frequency and size of her cash withdrawals continued to increase. At the point of the January 2018 limit increase, she had made three consecutive increases, although I accept this doesn't necessarily show a concerning trend. But she then went on to take a further four cash advances prior to the further credit limit increase in May 2018. I think this suggests an increasing reliance on cash advances to manage her debt and daily outgoings. And whilst I agree that on the face of things Mrs M was managing to meet her monthly payments and pay over the minimum for the account, I don't think that alone is enough to demonstrate her financial position was not worsening. It follows that I think had NewDay completed better proportionate checks, it likely would have seen these issues.

I therefore I agree NewDay acted unfairly in granting Mrs M the credit limit increase to £3,250 from May 2018.

Debenhams Account

At the time of granting the Debenhams account, Mrs M had an annual declared income of around £29,000. I've seen that by now she had around £11,900 in other lending. The checks NewDay carried out didn't show evidence of her getting into financial difficulty elsewhere, such as having defaults on other lending or having to take out pay day loans. But given that this account would have brought the total amount of credit Mrs M had with NewDay to £6,000, I think it would have been proportionate for NewDay to carry out better checks in order to understand Mrs M's financial situation. This would include finding out more about Mrs M's daily spending commitments, including her regular living costs.

But I also think that had NewDay carried out further checks, it would likely have found that she had enough disposable income available to meet her existing financial commitments whilst maintaining her new account. I say this having looked at bank statements Mrs M has provided from around this time, showing she was managing to meet her monthly minimum payment requirements. I agree with our adjudicator that at this time she would be committing around a third of her income to her existing debt commitments, including her Marbles

account and other unsecured borrowing. If NewDay had completed proportionate checks by looking at these, I think it's likely it would have found this to be the case and that the opening credit limit of £1,000 was likely to have been affordable. So I agree that NewDay didn't act unfairly in giving Mrs M this credit.

Amazon Account

At the time of granting the Amazon account, Mrs M had an annual declared income of around £29,000 with unsecured debt of £17,000. Taken together, the three NewDay accounts would now give Mrs M a total available credit limit of £8,000. So I think by this point it would have been proportionate for NewDay to carry out better checks in order to understand Mrs M's financial situation.

The information Mrs M has provided about her financial situation at this time shows she was now committing almost half her income to NewDay plus her other debt commitments. I am therefore in agreement with our adjudicator that this is unsustainable and having the use of this credit wouldn't have left Mrs M with enough to meet her essential living costs, committed expenditure and other unsecured debt repayments. I therefore agree that NewDay ought to have been aware that Mrs M was not in a position to take on and manage this additional credit.

I note that Amazon has already agreed that this account should not have been granted.

Putting things right – what NewDay needs to do

- Rework Mrs M's Marbles account to ensure that all interest and charges should be removed from the Marbles account for balances over £2,500, being the previous credit limit increase. All late payment and over limit fees should also be removed; and
- Rework the Amazon account removing all interest and charges that have been applied.
- If an outstanding balance remains on the Marbles and/or Amazon account once these adjustments have been made, NewDay should contact Mrs M to arrange an affordable repayment plan for the account. Once Mrs M has repaid the outstanding balance, it should remove any adverse information recorded on Mrs M's credit file from 14 May 2018 onwards.

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 Mrs M, 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 Mrs M's credit file from 14 May 2018.

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

My final decision

I therefore partially uphold this complaint and require NewDay Ltd to pay compensation in respect of the Marbles and Amazon accounts as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 6 December 2022.

Michael Goldberg

Ombudsman