

The complaint

Mr B complains that NewDay Ltd (“NewDay”) irresponsibly granted him a Marbles credit card account that he couldn’t afford to repay.

What happened

Mr B entered into an agreement with NewDay to have access to credit with an account that was opened for him in October 2020. The account had an opening credit limit of £250. NewDay went on to give Mr B an increased credit limit of £1,250 in March 2021 and then a further increase to £2,250 in July 2021.

Mr B says NewDay didn’t complete adequate affordability checks when it opened his account and increased his credit limit. He says that had it done so, NewDay would have seen he had a history of bad debt. He has also requested that NewDay writes off most of the outstanding balance on his account.

NewDay agreed to offer to refund Mr B all interest and charges added to Mr B’s account since March 2021. Our adjudicator said this offer was fair but Mr B 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 B the initial account credit. I’ll then consider the offer that NewDay has made.

Account opening

Before granting the new account NewDay looked into Mr B’s financial situation. I think NewDay gathered a reasonable amount of evidence and information from Mr B about his ability to repay his account. This included completing a credit check with credit reference agencies. These checks showed he already had around £600 in unsecured borrowing and ongoing credit commitments. It also showed that he had a default from 29 months earlier and also an adverse public record. NewDay says that based on that Mr B 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 B'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 B. I say this because Mr B's card application details showed him as having an annual income of around £5,000. Overall, given what I've seen about Mr B's financial history and the income he'd declared alongside the relatively low credit limit he'd been given, 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 B 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 from the two credit limit increases, I'm satisfied that this is in accordance with the way we'd expect businesses to compensate consumers in these cases. I know that Mr B has asked if NewDay would reduce his balance to £250 but that would require that NewDay writes off most of what he owes, which isn't something this service would usually expect to happen.

Generally speaking, this service does not ask businesses to write off remaining balances on accounts. When upholding a complaint, it is also usual for us to recommend that any interest and charges are used to pay off in whole or part any remaining balances on the relevant account. This is fair and reasonable given that the consumer has already had the benefit of the money they spent.

I've kept in mind what Mr B has told us about his difficult personal situation and ill-health and how this has affected his income-earning capacity. Whilst I've given this full consideration, and I'm sorry to hear that Mr B is continuing to experience challenging circumstances, I don't think this is something that affects my finding that NewDay acted fairly in granting Mr B his account and that the offer it has made is fair.

I would however expect NewDay to continue to act with appropriate forbearance in seeking to assist Mr B 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 shouldn't have increased Mr B's credit limit to £1,250, I don't think it's fair for it to charge any interest or charges on any balances which exceeded that limit. However, Mr B has had the benefit of the money he spent on the account so I think they should pay this back. Therefore, NewDay should:

- Rework the account removing all interest and charges that have been applied to balances above £250, being the opening credit limit.
- If the rework results in a credit balance, this should be refunded to Mr B 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 30 March 2021 regarding this account from Mr B's credit file.

- Or, if after the rework the outstanding balance still exceeds £250, New Day should arrange an affordable repayment plan with Mr B for the remaining amount. Once Mr B has cleared the outstanding balance, any adverse information recorded after 30 March 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 B 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 B's complaint in relation to the first and second credit limit increases and require NewDay Ltd to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 October 2022.

Michael Goldberg

Ombudsman