

DRN-3713543



The complaint

Mr D complains that NewDay Ltd ('NewDay') wrongly increased his credit limit when this was not affordable for him.

What happened

Mr D took out a credit card with NewDay in August 2018. NewDay says that he told them that he earned £12,000 per year and had unsecured debts of £100. They say that they carried out checks into his credit history and identified defaults from over three years ago. In the circumstances, NewDay accepted his application and offered a credit limit of £450.

NewDay increased this credit limit repeatedly over the coming years in the following amounts:

December 2018	£1,100
April 2019	£2,100
August 2020	£3,100
December 2020	£4,350
April 2021	£5,850

While Mr D did not ask for any of these extensions, NewDay says that these increased limits were responsible lending. In support of this, NewDay say that the increases were based upon the information Mr D had initially provided, together with the manner in which the account was managed, and reasonable assessments of likely disposable income available to Mr D. They say that the first increase in particular was for a relatively small sum, given Mr D's reported income. They say that Mr D was able to maintain payments, and indeed often made overpayments over the course of the agreement.

Mr D says that NewDay should never have offered him a credit card, as he was not able to afford to make the repayments. He says that each of the extended credit limits only made his financial situation worse. In support of this, he has provided bank statements from the relevant periods. He says that his financial situation did not improve over the life of the account, and that each increase was unaffordable.

Our investigator thought that the initial offer of the card had been reasonable, but that further checks should have been carried out before any credit increases were applied. They thought that reasonable checks would have shown that the increases were not affordable.

NewDay did not agree and so this has come 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.

Before providing credit, a business must take reasonable steps to make sure that the lending is affordable to the customer. This means that appropriate checks must be made at the outset, but also before any increase in a credit limit. There isn't a set list of checks that lenders needed to carry out. But all of the rules and guidance refer to any checks being proportionate.

I have considered the information that NewDay obtained from Mr D before providing the initial £450 credit limit. They asked him to tell them how much he earned, and made some checks into his credit history. The defaults which were identified were reasonably old, and the credit limit offered was modest. In the circumstances, I think it was reasonable for NewDay to rely upon what Mr D told them, together with the additional checks that it carried out. So I think that NewDay had acted reasonably at that point.

While I have considered what NewDay say about the initial increase, I do not agree that the checks carried out at that point were sufficient. The first limit increase was for over 200% of the original limit, only a matter of months after the initial assessment that £450 was the appropriate limit. While I understand that additional factors were being considered, I do not think that it was appropriate to base this increase upon assumptions about Mr D's disposable income. I think that NewDay should have asked Mr D himself more about his circumstances, in particular about his income and regular outgoings.

Having decided that NewDay did not carry out reasonable checks in December 2018, I must consider what such checks would have uncovered. In order to assess this, I have considered the bank statements that Mr D provides from the relevant period. These show Mr D's monthly spending regularly exceeding his income, which appears to have been supported by payments from individuals. A number of direct debits were returned unpaid over the relevant period, demonstrating that Mr D was also struggling with his cash flow. In the circumstances, I do not think that Mr D's financial situation supported an increased credit limit and that asking him about his income and expenditure would more likely than not have uncovered this. Having considered all of the evidence, I am satisfied that this reasoning applies equally to each subsequent increase.

While NewDay is correct to say that there were overpayments during the course of the agreement, there were also a number of overlimit charges. These started in June 2019, shortly after the second increased limit, and were applied on a number of occasions after this. His sporadic overpayments suggested occasional boosts to income, rather than an income which could support regular payments to service increasing debt. This is supported by the occasional payments which Mr D would receive from individuals. I am satisfied that it is more likely than not that he was being supported by these individuals to help him make payments. During the life of the agreement, Mr D's payments toward the account would regularly be lower than his spending on it.

I am satisfied overall that Mr D's description of his finances is an accurate one and that his use of the card supports his description of the lending as unaffordable. Had NewDay carried out proper checks, I am therefore satisfied that it would have concluded that none of the higher credit limits were affordable to Mr D and so would not have applied them. This additional lending was unaffordable and proper checks would have made this clear to NewDay.

Putting things right

While Mr D has had the benefit of the amounts he has spent, and must repay this, the interest and charges which have been applied by NewDay since that first increased credit limit must be refunded to him. In addition, NewDay must ensure that Mr D's credit file reflects the situation as it ought to have been had these mistakes not been made.

My final decision

For the reasons given above, NewDay Ltd must:

1. Rework the account removing all interest and charges which have been applied since 17 December 2018;
2. If the rework results in a credit balance, this should be refunded to Mr D along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay Ltd should also remove all adverse information recorded after 17 December 2018, regarding this account from Mr D's credit file;
3. If after the rework there is still an outstanding balance, NewDay Ltd should arrange an affordable repayment plan with Mr D for the remaining amount. Once Mr D has cleared the outstanding balance, any adverse information recorded after 17 December 2018 should be removed from his credit file.

*HM Revenue & Customs requires NewDay Ltd to deduct tax from any award of interest. NewDay must give Mr D a certificate showing how much tax has been taken off if he asks for one. If NewDay intend to apply the refund to reduce an outstanding balance, they must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 23 February 2023.

Marc Kelly
Ombudsman