

The complaint

Mr S says NewDay Ltd irresponsibly lent to him.

What happened

This complaint is about two credit card accounts NewDay Ltd provided. The Marbles account was opened in July 2018. Mr S was given an initial credit limit of £1,200. This limit was increased four times until it eventually reached £6,700 in October 2021. The AO account was opened in January 2022 with a credit limit of £11,400. This account had no credit limit increases.

Our adjudicator partially upheld Mr S's complaint and thought that NewDay Ltd ought to have realised Mr S simply wasn't in a position to sustainably repay any further credit by the time it offered the increase to her credit limit of £4,450 to £5,450 in April 2021. NewDay Ltd did not respond to the assessment, so the complaint has passed 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.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website.

NewDay Ltd needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr S could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that NewDay Ltd should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the frequency of borrowing, and the longer the period of time during which a customer has been indebted (reflecting the risk that prolonged indebtedness may signal that the borrowing had become, or was becoming,

unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Our adjudicator's assessment provided a detailed account of the increases of credit, and they are summarised above. Neither party has called the specifics into question, so, I don't intend to cover them off here.

Our adjudicator thought that the early increases to the credit limit on the Marbles account were not examples of irresponsible lending. Both parties have seen that assessment and Mr S has not raised any objection to those findings. I have reviewed the case in its entirety and have reached the same outcome as the adjudicator and for the same reasons. I haven't seen anything to make me think NewDay Ltd should have been concerned about Mr S's ability to afford the limits given before the increase in April 2021. In short, I say that because Mr S declared a steady income and his other borrowings were modest. And Mr S's credit file was largely clean in the recent times before the lending decisions. So, in the absence of any argument about that I will turn to the increase of April 2021.

Our adjudicator set out in some detail why he thought NewDay Ltd shouldn't have provided Mr S with any further credit from April 2021 onwards. Mr S had more than doubled his other credit commitments in the two years since his last credit increase in 2019. He had taken out two loans with a monthly repayment of £267 per month. And his total credit card debt had increased by over 20%. Mr S's income was modest in comparison to the borrowings at this stage and the cost of making sustainable monthly repayments towards these debts took up a significant proportion of his income. And that situation would have been even worse had Mr S spent up to the credit limits he already had.

So, considering all the submissions made in this case, NewDay Ltd, in increasing Mr S's credit limit, added to his indebtedness in a way that was not responsible. And I think I think NewDay Ltd should reasonably have seen that further lending was unsustainable, or otherwise harmful such that they shouldn't have increased Mr S's credit limit. I say that because I also think there was a significant risk that further increases to the credit limits could have led to Mr S's indebtedness increasing unsustainably, such that he had no funds available to meet his regular outgoings.

It follows that I think that Mr S lost out because NewDay Ltd provided him with further credit from 29 April 2021 onwards. In my view, NewDay Ltd's actions unfairly prolonged Mr S's indebtedness by allowing him to use credit he couldn't afford over an extended period of time and the interest being added would only have the effect of putting him into further debt.

It follows that NewDay Ltd should put things right.

Putting things right

NewDay Ltd should:

- Rework Mr S's accounts to ensure that from 29 April 2021 onwards interest is only charged on balances up to the total credit limit of £4,450 (being the credit limit in place before that date) to reflect the fact that no further credit limit increases should have been provided. NewDay Ltd should not have provided the credit on the AO card at all. All late payment and over limit fees should also be removed; and
- If an outstanding balance remains on the accounts once these adjustments have been made NewDay Ltd should contact Mr S to arrange an affordable repayment

plan for these accounts. Once Mr S has repaid the outstanding balance, it should remove any adverse information recorded on Mr S's credit file from 21 April 2021 onwards for each account.

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 Mr S, 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 Ltd should also remove any adverse information from Mr S's credit file from 21 April 2021 onwards.†

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

My final decision

For the reasons set out, I'm partially upholding Mr S's complaint. NewDay Ltd should put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 1 March 2023.

Douglas Sayers
Ombudsman