

The complaint

Mr W complains that NewDay Ltd trading as Marbles Card was irresponsible in its lending to him.

What happened

Mr W was provided with a credit card in September 2020 (card 1) with an initial credit limit of £900. The credit limit was increased on three occasions (March 2021, July 2021 and April 2022) increasing his credit limit to £4,150. In October 2021, Mr W was then provided with another credit card under a different brand but from the same lender (card 2). This had an initial credit limit of £2,500 which was increased to £3,750 in May 2022.

Mr W says he understands that it wasn't unreasonable that he was provided with card 1 with the initial £900 credit limit. However, he says that he quickly made three cash withdrawals and in October 2020 he contacted NewDay to say he was potentially a vulnerable consumer as he had an issue with gambling. He says that given the information he had provided and his use of the card further lending in the form of credit limit increases, and a further credit card shouldn't have been provided. Mr W says the lending has put him into a cycle of debt and caused him stress and anxiety.

NewDay issued a final response to Mr W in August 2022. It provided information about the checks carried out as part of the application process for each card and the checks before the credit limit increases were applied. Based on its investigation at that time it didn't uphold Mr W's complaint.

Mr W referred his complaint to this service. NewDay reconsidered Mr W's complaint and noted that Mr W had contacted it in October 2020 asking for a freeze on cash transactions. It didn't have a recording of the call but accepted that the information provided and Mr W's use of card 1 should have raised concerns. Based on this, it said while the initial provision of card 1 was reasonable, credit limit increases shouldn't have been applied and card 2 shouldn't have been provided. Based on this it offered to refund any late, overlimit and cash fees along with interest charged on the increased balance following the first increase on card 1. And refund all interest and charges applied since inception on card 2.

Our investigator put NewDay's offer to Mr W. Mr W didn't accept the offer. He wanted further details of the refund calculations and confirmation that adverse information would be removed from his credit file. Our investigator issued a view in February 2023. She agreed that NewDay shouldn't have applied the credit limit increases to card 1 and shouldn't have provided card 2. She recommended that NewDay rework card 1 and refund all interest, fees, charges and insurances (not already refunded) that were applied to balances above £900. She said all adverse information recorded on Mr W's credit file after 31st March 2021 regarding this account should be removed once any outstanding balance on the account had been cleared.

NewDay noted the view was in line with its offer aside from the points regarding Mr W's credit file. It said that after the refunds Mr W would still have significant balances outstanding on both cards and that he was in payment arrangements for these. It said it was correctly

reporting the payment arrangements on Mr W's credit file.

Mr W asked for an ombudsman to issue a decision on his complaint. He specifically noted that he wanted a ruling on both credit cards and evidence provided of the refund calculations. He asked that the outstanding balances on his accounts be written off as he had made NewDay aware that he was struggling with gambling, yet it increased the amount it lent to him. Following this NewDay provided further details of its refund calculations that Mr W accepted. However, he was still concerned that adverse information – noting a 'special arrangement' - was being recorded on his credit file. He said that NewDay failed to protect him as a vulnerable customer when he made it aware of his gambling.

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.

Mr W has complained that NewDay was irresponsible in its lending to him and failed to protect him after he informed it about his gambling.

Card 1 was provided in September 2020. At this time, I accept that NewDay wasn't aware of Mr W's issues with gambling and so I have considered the checks it carried out before card 1, within an initial credit limit of £900 was provided and whether these were proportionate. Before lending, NewDay gathered information about Mr W's income and carried out a credit check. This showed that Mr W had three historic defaults totalling £9,300 with the most recent being recorded 28 months previously. He had no public records and no accounts in arrears. Mr W was recorded as having an annual income of £42,000 and unsecured debt of £42,200. Mr W had £865 in payday loans. Based on this information it appears that Mr W had experienced problems managing his money in the past and was still using payday loans. While I find this could have raised concerns about providing Mr W with further credit, as he had no accounts in arrears and noting the credit limit provided compared to his income, I do not find in this case I have enough evidence to say that card 1, with the initial £900 credit limit shouldn't have been provided.

NewDay has accepted that it shouldn't have provided further lending to Mr W following his call in October 2020 when he asked for a freeze on his cash transactions and noting his use of card 1 to that time. A copy of the call hasn't been provided but given the comments NewDay has made about Mr W's request and noting Mr W made three cash withdrawals in the first month of having card 1, I agree that the information available should have raised concerns. Mr W has said he explained he told NewDay he had a gambling problem, I find it reasonable to accept his testimony. Given this I agree NewDay shouldn't have provided any additional lending after October 2020.

NewDay has offered to remove all interest, fees, charges and insurances (not already refunded) that have been applied to balances above the initial £900 credit limit on card 1 and all fees, charges, insurances and interest on card 2. I find this reasonable and it has provided its calculations and Mr W has agreed with these.

Following the refunds, NewDay has said that both card accounts will still have significant balances outstanding. Mr W requested that his outstanding balance be written off. I understand the points Mr W has raised about NewDay not providing the protection it should have after he informed it of his gambling problem. But as Mr W had the benefit of the money, I think it is reasonable to require him to repay this and I note Mr W did use his cards for retail spend as well as cash withdrawals.

So, while I understand why Mr W feels that NewDay should do more to assist him, I find the

refunds that have been offered are reasonable. As there will still be outstanding balances on Mr W's cards I cannot say that NewDay is wrong to record the payment arrangement at this time. However, given I do not find that the credit limit increases on card 1 should have been provided and that card 2 shouldn't have been provided, once the outstanding balances have been repaid, NewDay should remove all adverse information recorded on Mr W's credit file regarding card 1, from the date of the first credit limit increase and all adverse information regarding card 2 from Mr W's credit file.

My final decision

My final decision is that NewDay Ltd should as it offered (if this hasn't already happened):

- Rework card 1 account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £900.
- Refund all interest, fees, charges and insurances (not already refunded) that have been applied to card 2.

NewDay Ltd has said that there will still be outstanding balances on Mr W's cards once the refunds have been applied. In regard to Mr W's credit file, NewDay Ltd should:

- once the remaining balance on card 1 has been repaid, remove all adverse information recorded on Mr W's credit file after 31st March 2021 regarding this account (including the payment arrangement).
- Once the remaining balance on card 2 has been repaid, remove all adverse information recorded on Mr W's credit file regarding this account (including the payment arrangement).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 July 2023.

Jane Archer
Ombudsman