

The complaint

Mrs M complains that NewDay Ltd trading as House of Fraser ('NewDay') irresponsibly gave her a credit card account and credit limit increases that she couldn't afford.

What happened

In May 1993, Mrs M applied for a credit card account with NewDay who were trading as House of Fraser. NewDay took over the account on 5 February 2008. It's not clear what the initial credit limit was but in December 2013 the credit limit increased from £1,400 to £2,100.

In 2021, Mrs M complained to NewDay to say that the account shouldn't have been opened for her because it wasn't affordable and that NewDay ought to have made a better effort to understand her financial circumstances before giving her credit.

Our investigator didn't recommend the complaint be upheld. Mrs M didn't agree. So, the complaint was passed to me to decide.

I issued my provisional decision in respect of this complaint on 21 June 2022, a section of which is included below, and forms part of, this decision. In my provisional decision I set out the reasons why it was my intention not to uphold Mrs M's complaint. I set out an extract below:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've read and considered the whole file, but I'll confine my comments to what I think is relevant. If I don't comment on any specific point it's not because I've failed to consider it but because I don't think I need to comment on it in order to reach what I think is the right outcome in the wider context. My remit is to take an overview and decide what's fair "in the round".

Mrs M's complaint is that NewDay made credit available that was unaffordable. NewDay say that because they took over the account from House of Fraser, and due to the passing of time, they have no information about the initial lending or the card's management. Our investigator thought that because House of Fraser made the initial lending decision, that wasn't something we could consider against NewDay. I have seen testimony that that is what NewDay thinks and no evidence that suggests NewDay didn't take on the liabilities for the accounts they took over.

But there is a different reason we cannot look at the initial lending decision in 1993. Or any lending decisions up to 6 April 2007 for that matter. I say that because we can only look at events relating to credit broking that occurred on or after 6 April 2007. That's because 6 April 2007 is when our jurisdiction to look at these types of complaints began. Our jurisdiction isn't retrospective. As the event complained of here (the initial lending decision by House of Fraser and the management of the account before 6 April 2007) is before 6 April 2007 it isn't a complaint we can look at because it pre-dates our jurisdiction.

So, I will look at the lending decisions made after 6 April 2007. The only credit increase we know about after that time was in December 2013 when the credit limit increased from £1,400 to £2,100.

NewDay has not explained what credit checks they used to determine the amount of credit they were able to offer in 2013. I do have a credit report from Mrs M dated from 2021 which does refer back to some accounts that were running in 2013. I have found no evidence that Mrs M was not managing her other credit at the time of the credit limit increase in December 2013. The credit report seems to suggest that what NewDay would have seen was a customer with no defaults or CCJ's or a history of missed or late payments on her other accounts.

And whilst NewDay have produced information about how Mrs M was managing her credit account, due to the passing of time, that information doesn't start until June 2014. So, whilst I can see that Mrs M was managing her NewDay account well in 2014, that doesn't help me assess how things were in December 2013.

I have had regard for the bank statements that Mrs M has provided. They show that Mrs M was running a negative balance in her current accounts. And I have also noted that some of the account statements show more money going out of the account in a month than entered it. They also show that in some months there was more funds coming into the account than leaving it. I have noted that these accounts do show a good level of income coming into them compared to the fairly modest amount of extra credit that was being offered by NewDay in 2013.

And in thinking about what these statements show, I have considered that the credit report information that has been submitted to me suggests that the accounts were being managed well in other respects at that time.

So, having considered all the submissions made in this case, and in the absence of any extra evidence from Mrs M to the contrary, I have seen insufficient evidence to make me think that NewDay were on notice to make more searching enquiries about Mrs M before providing her with credit. And I have seen insufficient evidence to think that more thorough affordability checks would have led NewDay to think that the credit it provided Mrs M was unreasonable in 2013.

I know that Mrs M will be disappointed with my decision, in itself and because she has put time and energy into her complaint. I want Mrs M to know that we consider all cases on their own particular merits and I want Mrs M to know that I considered all the submissions made in this case. Having done so, I have not found sufficient evidence to uphold this complaint."

I asked the parties to the complaint to let me have any further representations that they wished me to consider by 5 July 2023. NewDay have acknowledged receiving the decision and said they accept my provisional findings. Mrs M has not acknowledged receiving the decision, made any further submission or made a request for a time extension to do so. I think that Mrs M has had sufficient time to make substantive further submissions if she had wished to. So, I am proceeding to my 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.

Given that there's no new information for me to consider following my provisional decision, I have no reason to depart from those findings. And as I've already set out my full reasons for not upholding Mrs M's complaint, I have nothing further to add.

My final decision

For the reasons set out, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 3 August 2023.

Douglas Sayers
Ombudsman