

## The complaint

Miss D complains NewDay Ltd lent to her irresponsibly.

## What happened

Miss D opened the following accounts with NewDay, and was given the credit limits below:

Credit card 1	
Date	Limit
August 2018	£300
December 2018	£1,200
April 2019	£2,950
September 2019	£3,750
July 2020	£4,000
October 2020	£4,750
October 2021	£5,750

Credit card 2	
Date	Limit
July 2020	£600
November 2020	£1,350
November 2021	£2,250

Credit card 3	
Date	Limit
August 2021	£700
December 2021	£1,200
May 2022	£1,600

Miss D complained to NewDay that she shouldn't have been given the accounts because they were unaffordable, and she was frequently only making the minimum payment each month.

NewDay looked into Miss D's concerns and issued their final response which explained they felt they'd carried out sufficient checks before approving her lending. They also explained Miss D was given the option to opt out of credit limit increases, and she didn't choose to do so – in fact, she proactively asked for a credit limit increase in July 2020. Therefore, they didn't think her complaint should be upheld. Miss D remained unhappy, so she brought her complaint to our service.

Our Investigator felt Miss D's complaint should be partially upheld. She didn't think Miss D's

credit limit for credit card 1 should have been increased in September 2019, to £3,700. She also felt Miss D shouldn't have been allowed to open credit cards 2 or 3. And to put things right, our Investigator said interest and fees on balances over £2,950 (on credit card 1) should be refunded, alongside all interest and fees applied to credit cards 2 and 3.

NewDay agreed with our Investigator, but Miss D didn't. Miss D felt interest and charges for her entire balance should be refunded from the date of the £3,700 credit limit increase for credit card 1 (alongside what our Investigator recommended for credit cards 2 and 3).

Our Investigator wasn't persuaded to change her mind, so Miss D's complaint was passed 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.

Having considered everything, I've reached the same conclusions as our Investigator, and I'm partially upholding Miss D's complaint.

Before lending to Miss D, NewDay were obligated to carry out reasonable and proportionate checks so that they could determine whether the borrowing was affordable and sustainable for her. Our approach to complaints about unaffordable and irresponsible lending is on our website, and I've used this approach to help me decide a fair and reasonable outcome for Miss D.

### 2018 lending decisions

When Miss D's credit card 1 was opened in August 2018, NewDay gathered information about Miss D's income and carried out a credit check. This showed Miss D was earning around £27,000 a year; and had three open accounts. It also showed she had five defaults, of which the last one was applied just over three years prior, and two County Court Judgments (CCJ), of which the last was recorded more than two years prior.

While there were negative markers in Miss D's credit file, I don't consider it would be fair if lending to her was automatically declined for that reason. That's because in Miss D's case, the financial difficulties she'd experienced had occurred more than two years before she applied for this account. That suggested she was in a better financial position than she'd previously been in. Given the initial credit limit was for £300, I don't consider additional checks were warranted before NewDay could open credit card 1.

In December 2018, Miss D's credit limit was increased from £300 to £1,200. This time, when making their lending decision, NewDay relied on what they knew of the way Miss D was managing her account with them, and information from credit referencing agencies.

The information I've seen from that time doesn't suggest there were any issues with the way Miss D was managing her accounts with NewDay or any other lenders. As such, I don't consider further checks were warranted before increasing her credit limit to £1,200.

Given the above, I'm satisfied NewDay treated Miss D fairly when they opened credit card 1, and when they increased her credit limit for that account to £1,200.

### April 2019 lending decision

Again, NewDay relied on how Miss D was managing credit card 1 and gathered information

from credit referencing agencies. However, I consider the information they gathered ought to have made NewDay consider carrying out additional checks.

Additional checks were required because Miss D now had six open accounts, and her outstanding balances had increased quite substantially. This suggested she may have become more reliant on borrowing – and in turn, additional borrowing may not have been affordable for her.

For me to get a better understanding of Miss D's circumstances in April 2019, I've reviewed her bank statements from that period of time. When doing so, the evidence showed her income was still around the amount she detailed in her application for the credit card. And, after essential expenditures, she had a disposable income of around £900 per month.

I've also reviewed how Miss D managed credit card 1, and seen she made her payments on time, and stayed within her credit limit. The evidence also showed that she'd often make more than the minimum repayment each month. As such, I'm persuaded she was managing her account well, and I can't fairly say her credit limit shouldn't have been increased to £2,950.

#### September 2019 lending decision

In September 2019, Miss D's credit limit was increased to £3,700. However, when considering the information NewDay had access to at that time, I don't think this increased credit limit should have been offered to her.

The evidence shows that between April and September 2019, Miss D paid below the minimum repayment in all months but one. This ought to have been a clear indicator to NewDay that she was struggling to manage her account. The information from credit referencing agencies showed Miss D had used six cash advances between May and September 2019, which is another potential indicator of financial difficulties.

The information above ought to have been enough for NewDay to recognise it was highly unlikely that increasing Miss D's credit limit would have been affordable or sustainable. That's because not only was she relying on cash advances, but she was also unable to consistently meet her repayment obligations under her existing £2,950 credit limit.

Given the above, I don't consider NewDay should have increased Miss D's credit limit to £3,700.

#### Credit cards 2 and 3

As I've explained above, I don't consider it was appropriate for NewDay to have increased Miss D's credit limit in September 2019. As credit cards 2 and 3 were opened after September 2019, I also consider it was unreasonable for NewDay to have opened those accounts. I say this because these accounts were opened around the time her credit limits were increased on her other card. And this pattern of borrowing suggests Miss D may have been becoming reliant on borrowing – and in turn, further lending wasn't sustainable for personal circumstances.

#### **Putting things right**

As I consider NewDay treated Miss D unfairly, they need to take steps to rectify the mistakes they made from September 2019 onwards.

When we consider a consumer shouldn't have been given credit, our usual approach is to

ask the business to refund the interest and charges added to the borrowing they shouldn't have been given. So, for credit card 1 this means removing all interest and charges applied to any balances Miss D accrued above £2,950. However, interest can be charged on balances up to this amount. That's because I consider a credit limit up to £2,950 was affordable for her circumstances.

Regarding credit cards 2 and 3 card, I consider all interest and charges should be removed because she never should have been allowed to open those accounts.

For the reasons above, I'm upholding Miss D's complaint in part.

### **My final decision**

My final decision is that I'm upholding Miss D's complaint about NewDay Ltd.

To Put things right NewDay Ltd need to:

- For credit card 1, rework the account removing all interest, fees, and charges (not already refunded) that have been applied to balances that exceed £2,950.
  - If the rework results in a credit balance, this should be refunded to Miss 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 September 2019 regarding this account from Miss D's credit file.
  - Alternatively, if after the rework the outstanding balance still exceeds £2,950, NewDay Ltd should arrange an affordable repayment plan with Miss D for the remaining amount. Once this outstanding balance has been cleared, any adverse information recorded after September 2019 should be removed from Miss D's credit file.
- For credit cards 2 and 3, rework the account removing all interest, fees, and charges (not already refunded) that have been applied.
  - If the rework results in a credit balance, this should be refunded to Miss 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 regarding these accounts from Miss D's credit file.
  - Alternatively, if after the rework there is still an outstanding balance, NewDay Ltd should arrange an affordable repayment plan with Miss D for the remaining amount. Once this outstanding balance has been cleared, any adverse information in relation to these accounts should be removed from Miss D's credit file.

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

If NewDay has already done all of the above, there is nothing further they need to do to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept

or reject my decision before 22 November 2023.

Sarrah Turay  
**Ombudsman**