

The complaint

Mrs B complains that NewDay Ltd discriminated against her on the basis of her gender when reducing her credit limit on her credit card. She was also unhappy with NewDay's explanations and lack of customer care.

What happened

In August 2022 Mrs B received a text (later followed up with a letter) advising her that her credit limit had been reduced from £3,550 to £1,500. The reason given was that she was rarely using her full credit limit which might mean she didn't need as much access to credit as she currently had on her credit card. The text message said NewDay felt it was more suitable for her level of usage.

Mrs B was unhappy with this. She paid off her credit card in full every Sunday. She pointed out that her husband also had a NewDay credit card which he used less than her, but he hadn't had his credit limit lowered. As a result she believed that NewDay was treating her differently to her husband which is gender discrimination. She further pointed out that this would reduce her credit score. During an online chat with NewDay the adviser said it was an automated process, which Mrs B wasn't happy with. The adviser transferred Mrs B's call to another adviser to get her credit limit to be reinstated. But she was then advised that she wasn't eligible for a reinstatement.

NewDay reviewed Mrs B's complaint and explained that it had made the decision to lower the limit because Mrs B wasn't fully utilising her credit limit. It didn't agree that it had discriminated against her as the decision was in line with its terms and conditions. It did however say that its adviser hadn't followed the correct process in respect of getting the limit restored. NewDay arranged to reinstate the limit and paid Mrs B £40 for the upset and inconvenience caused.

On referral to the Financial Ombudsman Service our Investigator said that whilst she didn't think Mrs B was treated any worse than her husband due to her gender, NewDay hadn't, in her view, done enough to address Mrs B's concerns. She proposed that NewDay provide a further explanation as to what was considered when it reviewed her account and that it pay a further £200 compensation.

NewDay disagreed. Whilst it said its final response letters could have been clearer, it didn't feel that not explaining some of the factors it takes into account when deciding whether to reduce the credit limit, merited an award of £200. It was prepared to offer a further £50.

I issued a provisional decision. In it I said that I didn't think that Mrs B's selection for a credit limit reduction would be likely to lead to a finding of discrimination. But I did consider that she had been given poor customer service. And as NewDay recognised its responses could have been clearer and had proposed paying a further £50, I said that that was a fair offer.

NewDay accepted my provisional findings.

Mrs B was unhappy with my findings and the proposed award.

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.

My provisional findings are set out below, in italics:

"When NewDay lowered Mrs B's credit limit it provided the following explanation in its letter of 24 August 2022:

"We've noticed you're rarely using your full credit limit, which we think might mean you don't need as much access to credit as you currently have on your ..card. With this in mind, from today we have reduced your credit limit from £3,550.00 to £1,500.00. This should still leave you with enough of a limit to continue spending at a similar level to the past 12 months."

The terms of the credit agreement for the card state at paras 1 and 18.2:

"1 We will decide your credit limit and tell you what it is. We may change it at any time and let you know about any change."

18.2 We can change your credit limit or cash limit under conditions 1 and 5.1. We will only reduce your credit limit or cash limit if we have good reason, for example your circumstances change, there is a significantly increased risk you may not be able to pay or we are concerned about fraud or the security of your Card."*

**concerning cash advances.*

So, under its terms and conditions, New Day can decrease the credit limit if it has good reason to do so. I bear in mind that the process allows the customer to apply for the credit limit to be reinstated, and Mrs B was ultimately successful in this respect. Mrs B says that her husband's credit limit was not decreased and that this is evidence of discrimination. It's not my role to say whether a business has acted unlawfully or not – that's a matter for the Courts. My role is to decide what's fair and reasonable in all the circumstances. In order to decide that, however, I have to take a number of things into account including relevant law and what I consider to have been good industry practice at the time. So although it would be for the Courts to say whether or not NewDay has breached the Equality Act 2010, I am required to take that Act into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

Under the Equality Act a business might be discriminating against a customer if it treated them unfavourably because of a protected characteristic (which includes someone's sex). Mrs B alleges that this is direct discrimination - treating someone less favourably than someone else -because of a protected characteristic.

The selection of Mrs B's account was an automated process and the factors that lead to that selection are commercially sensitive. But I bear in mind that Mr B's position was different to Mrs B's. For example he hadn't had the card for the same length of time and had a different credit limit. So whilst I can understand her annoyance at being selected for the reduction I don't think that the fact that her husband wasn't also selected would be likely to lead to a finding of discrimination.

I do think that Mrs B was given poor customer service when she did the online chat. The letter setting out the credit limit said, "please let us know as soon as possible if you want to keep your previous credit limit of £3,550." And as Mrs B had been using her card responsibly NewDay would have had to have a good reason not to reinstate the limit if she wanted to.

The initial reason given for Mrs B not being eligible for the reinstatement was "This would be down to Business policy surrounding limit caps. we do not allow for lending beyond particular account and multiple account level limit caps." which doesn't really make much sense, and I can understand that this would have caused anxiety if it implied that Mrs B had exceeded her limit. As NewDay said the adviser followed the wrong process I think it was fair of it to pay her £40.

As for NewDay's explanations to Mrs B, I understand she didn't like the generic nature of the responses. In the text sent to her Newday said that it "feels" the reduction might be more appropriate to her usage or that it thinks her not fully using the credit limit "might mean you don't need as much access to credit as you currently have." I appreciate that NewDay making assumptions about Mrs B's circumstances would have been annoying but I don't think it would be realistic to provide a tailored response to each customer. I don't think it was unfair to apply an automated procedure.

I think NewDay did reasonably explain why her credit limit was being reduced, as I've set out above, in its letter of 24 August 2022. It referred to her past 12 months' usage of the card. And she was using a small proportion of her credit limit each month (well below the lower limit proposed). NewDay said its responses could have been clearer and for that proposed a payment of a further £50. I think that was reasonable in the circumstances of this case."

I understand that Mrs B is unhappy with my provisional findings, and continues to believe that NewDay discriminated against her on the grounds of her gender. However I think that I've clearly set out why I don't think that was the case. And that I've set out what I believe to be the appropriate award in this case.

I remain persuaded by my provisional findings. These are now final and form part of this final decision.

My final decision

NewDay has already made an offer to pay a further £50 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that NewDay should pay Mrs B £50.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 18 October 2023.

Ray Lawley
Ombudsman