

## The complaint

Miss E complains that NewDay Ltd irresponsibly gave her a store card and two credit cards that she couldn't afford to repay.

## What happened

In 2010, Miss E applied for a store card with NewDay. Due to how long ago it was taken out there is limited information available. However, NewDay says that at least two credit limit increases were applied on this account in 2014 and 2016 (it's unclear what the opening limit was). The final credit limit was £450. The account has been dormant since 2017 as it held a nominal balance of 12 pence that NewDay has written off following this complaint.

In August 2018, Miss E applied for a credit card with NewDay. She was given an initial credit limit of £500. The limit was increased to £550 in September 2020 and to £1,550 in November 2022.

In November 2019, Miss E applied for a second credit card with NewDay. She was given an initial credit limit of £700. The limit was increased twice to £1,300 in November 2020 and to £2,800 in April 2021. The account was settled and closed in November 2021.

Miss E complained to NewDay in December 2022 to say the credit cards as well as all subsequent credit limit increases had been irresponsibly provided to her. She said that had appropriate affordability checks been completed before lending NewDay would have seen she couldn't afford the credit.

NewDay said that Miss E had made her complaint about the store card and its credit limit increases too late. This is because it was outside of the time limits set by the financial services regulator.

NewDay did however agree it shouldn't have increased Miss E's credit limit on the first credit card and offered to refund all interest and charges that had been incurred on balances that exceeded the opening credit limit of £500. It also upheld Miss E's complaint about the two limit increases on the second credit card in the same way. But it didn't think it had acted unfairly in providing the initial credit limit on either card.

I sent Miss E and NewDay my provisional decision on 6 October 2023. I explained why I thought the complaint about the store card had been brought too late and I therefore couldn't consider any complaint about it. In relation to the two credit card accounts, I said:

*NewDay has already agreed that it shouldn't have given Miss E any credit limit increases on either of the two credit cards. So, I've seen no reason to consider those lending decisions any further. I've therefore only looked at whether I think it acted fairly and reasonably in opening both accounts and providing the initial credit limits. We've set out our approach to unaffordable and irresponsible lending on our website and I've had this in mind when deciding whether NewDay acted fairly.*

*When the first credit card was opened, Miss E declared an annual income of around*

£14,500. NewDay completed a credit check which it said showed that Miss E had existing credit, including active payday loans. It also appeared to use a tool provided by a credit reference agency to verify Miss E's declared income. I note this check returned a value of 'Fail', so it appears NewDay simply relied on what Miss E had declared on the application.

Generally, it wouldn't be considered sufficient to rely solely on a statement of income just from the applicant, but I accept there will be exceptions to this. However, given that it appears NewDay tried to verify income in some way and failed, and it could see that Miss E was currently using payday loans I think this ought to have been of significant concern.

NewDay hasn't provided us a detailed breakdown of the credit checks it completed. Instead, it's given a broad overview of some key data points. In the absence of this more specific detail, I've relied on a copy of Miss E's credit file that she's provided to us as an indication of what I think NewDay likely saw. Her credit file indicates Miss E had been in a sustained cycle of borrowing with payday loans for a significant period of time leading up to the application of this credit card. As well as these she also held a number of other unsecured debts. I note that in checks NewDay completed a few months after the application it could see a recent history of over 40 payday loans on Miss E's credit file. So, I think it's likely this was also visible to it during the application.

Taking all of this into consideration, I don't think NewDay made a fair lending decision when it opened the first credit card. It hadn't been able to verify or check Miss E's stated income (which she had declared to be relatively modest), it could see she had a number of unsecured debts and that she'd been in a prolonged cycle of borrowing with payday lenders. All of this ought to have told NewDay that Miss E was unlikely to be able to sustainably repay more credit without having to borrow even more.

I also consider it acted unfairly when it opened the second credit card. This is because at the point of application Miss E had held her first credit card with NewDay for around 15 months. In that time, she had incurred overlimit fees in 12 of those months, including being consecutively over her agreed limit for the previous 11 months. NewDay's credit checks would also have shown that her overall unsecured debt had also increased in that time by around 50%. All of this ought to have told NewDay that Miss E was not in a position to be able to afford to sustainably repay more credit. It therefore shouldn't have lent to her.

For these reasons, I don't think NewDay's current offer of redress is fair. I don't think it should have granted Miss E either of the two credit cards as it ought to have been clear she wasn't able to sustainably afford the repayments.

It isn't possible to completely undo the lending that has happened. As Miss E has spent the money on the credit cards, I think it's fair she pays back the capital amounts she borrowed. However, as I don't think NewDay should have lent to her, it's fair that it reworks both accounts removing all interest, fees, charges and insurances not already refunded. It should also remove any adverse information from Miss E's credit file once the capital has been repaid.

Miss E accepted my provisional decision and had nothing further to add. NewDay didn't respond.

## **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.

As neither party had any further comments or evidence to provide, I've seen no reason to reach a different conclusion to the one I reached in my provisional decision. I'm therefore satisfied that NewDay acted unfairly when it gave Miss E both credit cards and it should therefore put things right.

## **My final decision**

For the reasons set out above, I uphold this complaint and direct NewDay Ltd to:

- a) Rework both credit cards removing all interest, fees, charges and insurances (not already refunded).
- b) For credit card one:
  - I. If the rework results in Miss E having paid back more than the capital amount she borrowed, NewDay should refund any overpayments to her. It should also add 8% simple interest per year to those refunds from the date of each overpayment to the date of settlement. It should also remove any adverse information it has recorded on Miss E's credit file in relation to this account.

Or;

  - II. If the rework results in there still being a capital balance outstanding it should agree an affordable repayment plan with Miss E for the remaining amount. Once Miss E has repaid the capital, NewDay should remove any adverse information recorded on her credit file in relation to this account.
- c) For credit card two, as this has already been repaid in full by Miss E, NewDay should refund any overpayments Miss E has made following the rework of the account. It should add 8% simple interest per year from the date of each overpayment (that is the date from which each overpayment would have resulted in a credit balance on the account) to the date of settlement. It should also remove any adverse information it has recorded on Miss E's credit file in relation to this account.

If NewDay has sold any outstanding debt to a third party, it should either buy back the debt to carry out these directions or ensure the third party does so promptly on its behalf.

If NewDay considers tax should be deducted from the interest element of my award it should provide Miss E with a certificate showing how much it has taken off, so she can reclaim that amount, if she is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 20 November 2023.

Tero Hiltunen  
**Ombudsman**