

The complaint

Mr F says NewDay Ltd, trading as Marbles, irresponsibly lent to him.

What happened

Mr F applied for a credit card in January 2022. It was approved with a limit of £900 and he was given two subsequent credit limit increases. The first was in June 2022 to £1,900 and the second in October 2022 to £3,150.

NewDay says it carried out appropriate checks and Mr F met its acceptance criteria. It reviewed his internal and external account management prior to each limit increase, but it can now see that the last increase may not have been sustainable. So it upheld that part of his complaint.

But Mr F says he maxed out the card straight away and only ever made the minimum payments. Yet NewDay doubled his credit limit quickly. He accepted the limit increase as he was desperate. He says he is struggling to repay the debt every month which is very stressful. He asks for all interest to be refunded and any related adverse information to be removed from his credit file.

Our investigator upheld Mr F's complaint in part. He said the first limit increase was not affordable either and better checks would have shown this.

NewDay disagreed and asked for an ombudsman's review. It said it was not required to review bank statements and it used current account turnover data as part of its checks. It disagrees that the increase in his total debt at the time of the first limit increase ought to have concerned it. It says there were no reported arrears on his file and Mr F repaid more than the contractual repayments on his Marbles card. Also, at no point did Mr F request any repayment assistance. It said that Mr F had more than one current account and the investigator looked only at one so we may not have the full picture.

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.

Our approach to unaffordable/irresponsible lending - including all the relevant rules, guidance and good industry practice - is set out on our website and I have followed it here.

NewDay is required to lend responsibly. It needed to conduct checks to make sure that the card and credit limit increases it was giving to Mr F were affordable and sustainable. Such checks need to be proportionate to things like the credit limits it offered Mr F, how much he had to repay (including interest and charges) each month, his borrowing history with it and what it knew about his circumstances. But there is no set list of checks it had to do.

This means to reach my decision I need to consider if NewDay carried out proportionate checks at the time of application and each limit increase; if so, did it make fair lending

decisions based on the results of its checks; and if not, what better checks would most likely have shown. I also need to think about, bearing in mind the circumstances at the time of each additional advance in credit, whether there was a point at which NewDay ought reasonably to have realised it was increasing Mr F's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit.

The initial lending decision and limit of £900

NewDay asked Mr F about his annual income, and his employment status. It completed a credit check to understand his existing debt and his credit history. Based on the results of these checks it concluded Mr F could afford a £900 opening credit limit.

I think these checks were proportionate and there was nothing in the information gathered that ought to have concerned NewDay. Mr F declared a gross annual income of £32,00. He had seven active credit accounts with a total balance of £9,300. They were all up-to-date and there was no adverse information on his credit file. So in the round I think NewDay made a fair lending decision in January 2022.

The first credit limit increase

NewDay's submission suggests that its decision to increase the credit limit on Mr F's account was largely based on reviewing his spending and payment behaviour on both its card, and external credit. I have some concerns with this approach as it's not clear to me why a borrower who is able to successfully manage a given credit limit can then automatically be deemed, without further checks at the time of the decision, to be able to successfully manage a higher limit. So I don't think solely these types of checks were sufficient, particularly as NewDay only had five months of data on how Mr F was managing his account and it was proposing to more than double his limit – when it knew he had opened seven new accounts elsewhere in the last 5 months.

In cases like this we look at the complainant's bank statements from the months prior to the increase to understand what NewDay would have learnt had it carried out a fuller financial review. I am not saying NewDay needed to do exactly this but it is a reliable way for me to understand what better checks would most likely have shown NewDay.

I think NewDay would have learnt a number of things that ought to have led to concern about Mr F's financial position. I say this as he needed to use his overdraft facility each month and often exceeded his arranged limit; his net monthly salary was lower than he had declared and he was using high-cost short-term credit. So in the round, I think there were indicators that there was a high risk that further extending Mr F's credit at this time would most likely be harmful to him.

NewDay has pointed out that Mr F did not approach it for financial assistance but this does not alter my conclusion. It does not know why this was the case, nor is it evidence that its lending wasn't irresponsible. It also said that as it seems Mr F had more than one current account and moved money between them we do not have the full picture. I accept there were multiple transfers, primarily crediting the account we have statements for. But I am satisfied as this was his primary account that his salary was paid into my finding is fair – and based on what proportionate checks would have shown Newday. Indeed without the credits from his other account(s) his financial position would have appeared more unstable.

It follows I find NewDay was wrong to give the first limit increase to Mr F. NewDay has already agreed that the second increase was given irresponsibly so I need not comment on that.

Putting things right

As I don't think NewDay should have increased Mr F's credit limit above £900, I don't think it's fair for it to charge any interest or charges on any balances which exceeded that limit. However, Mr F has had the benefit of all the money he spent on the account so it is right he repay the capital.

Therefore, NewDay should:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £900 after the date of the limit increase in June 2022.
- If the rework results in a credit balance, this should be refunded to Mr F along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove any adverse information recorded after June 2022 regarding this account from Mr F's credit file.
- If the rework results in there being an outstanding capital balance NewDay must try to agree an affordable repayment plan with Mr F. Once the capital balance has been repaid NewDay should also remove any adverse information recorded after June 2022 regarding this account from Mr F's credit file.

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

My final decision

I am upholding Mr F's complaint in part. NewDay Ltd, trading as Marbles, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 5 February 2024.

Rebecca Connelley
Ombudsman