

The complaint

Mr D says NewDay Ltd irresponsibly lent to him.

What happened

Between January 2021 and March 2023 Mr D took out four credit cards from NewDay. He complained to the lender in December 2023. It upheld his complaint about the last two cards (cards 3 and 4) that it gave Mr D in December 2022 and March 2023. Mr D then brought his complaint to this service saying NewDay was irresponsible to accept any of his applications as he had other commitments and bills.

Our investigator reviewed the first two credit cards. The first (card 1) was opened on 18 January 2021 with a £900 limit that was increased to £1,900 in May 2021. This account was closed by September 2021. The second (card 2) was opened on 10 January 2022 with a £1,200 limit that was increased to £2,200 in June 2022. This account was closed by September 2022.

She upheld Mr D's complaint in part. She found the checks for card 1 were not proportionate but she had no evidence to say that better checks ought to have led to a different lending decision. And she thought NewDay was wrong to give card 2 to Mr D based on the results of the checks it did complete.

NewDay disagreed and asked for an ombudsman's review. It said Mr D's annual income at the time of applying for card 2 was £30,000, and his total debt balances were less than 50% of his income. The account was used for a balance transfer, and was settled in full and closed within seven months. So it does not agree that accepting the application was irresponsible lending.

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 credit it offered to Mr D was affordable and sustainable. Such checks need to be proportionate to things like the credit limits it offered Mr D, 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 Mr D's applications 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 D's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit. I will also consider if NewDay acted unfairly towards Mr D in some other way.

I can see as part of NewDay's checks when Mr D applied for both cards it asked for his income and employment status. It carried out a credit check to understand his total level of borrowing held elsewhere and credit history. It did not ask about his housing or living costs. When it increased Mr D's limit on both cards it reviewed his external debt levels and how he was managing his account internally. From these checks combined it found the credit at each point in time would be affordable for Mr D.

I am not persuaded these checks were proportionate. Regulatory guidance says it is not generally sufficient for a lender to solely rely on an applicant's statement of income without independent evidence. And I can't see NewDay did anything to verify the income Mr D declared.

Card 1

In cases like this we typically look at the applicant's bank statements from three months prior to the credit approval. I am not saying NewDay had to do exactly this but it is a reliable way for me to understand what better checks would have shown the lender. However Mr D is unable to provide this information. This means I cannot fairly conclude that better checks ought to have led to a different lending decision. And from the information NewDay did have I cannot say it was wrong to lend to Mr D. He declared an annual income of £30,000 and had an overall debt level of just £2,200 that was well managed. He did have one default but that was from 31 months before.

It follows I am not able to say NewDay was wrong to give card 1 to Mr D.

Card 2

Whilst I am again not persuaded the checks were proportionate, I think in this instance even with the limited information it had gathered NewDay ought not to have lent to Mr D. I'll explain why. Mr D declared the same salary level of £30,000 but his indebtedness had increased five-fold within 12 months to £12,500. I can't see at the point of application that NewDay understood the exact product mix Mr D held this debt on. So assuming it used a repayment rate of 5% of balance to allow for repayment of the debt in a reasonable period of time, NewDay knew Mr D was already spending over 30% of his net income on credit.

This was a level that ought to have concerned NewDay as it can, as the industry knows, be an indicator of pending financial difficulties. By extending more credit to Mr D there was a risk he would not be able to sustainably make all his repayments.

I have considered that Mr D transferred in a balance of £996.32 and so was potentially making some interest rate savings, but this was only a small portion of his overall debt. And equally I can't see that NewDay knew that he was closing the other account so he most likely still had that line of credit available to spend that he would then need to repay.

In the round, I think NewDay was wrong to give card 2 to Mr D as it did not have the assurances it needed that the credit would not go on to cause him financial harm.

Did NewDay act unfairly towards Mr D in some other way?

I haven't found any evidence that it did. I note it applied interest in error in March 2024 to one of the upheld accounts but it has apologised to Mr D for that via this service.

Putting things right for card 2

As I don't think NewDay ought to have opened the second account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I think Mr D should pay back the capital amounts he has borrowed. Therefore, NewDay must:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied.
- As the rework will result in a credit balance, this should be refunded to Mr D along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement.
- However, if Mr D still has an outstanding capital balance on card 3 or card 4 NewDay is entitled to use the refund to reduce this balance.
- NewDay should also remove all adverse information regarding this account from Mr D's credit file.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Mr D 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 D's complaint in part with regards to card 2. NewDay Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 22 May 2024.

Rebecca Connelley
Ombudsman