

## The complaint

Miss H complains that NewDay Ltd have acted irresponsibly by issuing her with a credit card and increasing her limit several times.

## What happened

Miss H has a NewDay credit card and is struggling to make the minimum payment.

Her minimum payment is less than the interest which is accruing and, as she has to borrow money to pay this, she is getting more and more into debt. And this has affected her mental health.

Miss H complained to NewDay, saying that she felt her credit card was unaffordable and they acted irresponsibly first approving her credit card and then increasing the limit.

Due to a delay in receiving a final response letter Miss H brought her complaint to our service.

Our investigator reviewed NewDay's response and considered their lending decisions to have been fair and reasonable.

As Miss H remains dissatisfied, this case has now been referred to me to look at.

I issued 2 provisional decisions.

The first on 16 March 2024, said:

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Having done so, my provisional decision is to partially uphold this complaint and I'll explain why.*

*I first looked closely at the checks NewDay completed before they decided to give Miss H a £450 credit limit, to see if they completed thorough and proportionate checks to assess affordability without causing financial difficulty or harm.*

*NewDay say that when assessing credit worthiness, they don't rely on evidence of income and expenditure 'by way of a bank statement for example' but use information submitted by the customer, together with external verification checks. This includes Current Account Turnover data (CATO), bureau credit commitments, mortgage data, Office for National Statistics (ONS).*

*I think it more likely than not that NewDay initially asked Miss H about her salary as NewDay have listed gross annual income, employment status, time in employment as information they ask for and have a figure of £12,000 in a data report.*

*However, I think it more likely than not that they didn't ask about her rent as they only appear to ask for residential status and there is no figure in a data report. I recognise NewDay use*

*the CATO report, however I was surprised to find that they didn't have this information on file for a customer on a low income. If they had this data they would've had a record that Miss H didn't live rent free and £350 of her monthly income, which includes government benefits that are subject to change, goes on rent.*

*NewDay use a mixture of customer information and declarations, together with data which negates the need to see bank statements. However, from reviewing Miss H's bank statements and submissions, I could see her income and expenditure are at times heavily distorted due to her family circumstances, which I would describe as uncommon rather than extraordinary. Although NewDay are entitled to use their assessment method, because of this, I noted a risk associated with NewDay's use of CATO.*

*Having considered all the information on file, including the Credit Reference Agency (CRA) data which had information on previous defaults, the most recent of which was registered two years before her application, I think NewDay's decision to accept Miss H's credit card application and give her an account with a limit of £450 was fair and reasonable.*

*I then looked at the following decisions which NewDay made to increase Miss H's credit card limit:*

- 1. From £450 to £1,450 on 7 April 2022*
- 2. From £1,450 to £1,900 on 6 January 2023*
- 3. From £1,900 to £2,900 on 4 May 2023*

*Miss H says, "I would go on to the app to and they would offer me the increase and I don't recall them asking for any information". So, I asked NewDay several questions to understand if this was the case, whether they consider a response to an APP offer to be the customer applying and to provide the APP offer wording. However, NewDay referred me back to their submissions which didn't provide an answer to these questions and, from reviewing the file again, I think it more likely than not that for each increase NewDay:*

- Approached Miss H*
- Offered her an increase*
- Didn't ask her any questions about changes to her income or expenditure*
- Used the above-mentioned mix of customer information and verification checks*

*There isn't any evidence on file that NewDay had a discussion with Miss H or asked her any questions to ensure they had up to date information. So, although they had CATO information, which as mentioned above was distorted by Miss H's uncommon circumstances, they didn't have the full picture on either her income or expenditure. If they had, they would've been aware that Miss H's income had reduced at the beginning of 2022, and she then lost her job in August 2022 which meant her only income was £829 per month. So, I don't think they would've offered Miss H any of the above increases if they completed an in depth assessment.*

*Regarding NewDay's comment that they 'carried out an in-depth evaluation of each time a credit limit increase was provided', they say the 'evaluation of Miss H's account included':*

- 'Instances of exceeding the agreed credit limit*
- Instances of late or missed payments*
- The payments that were made*
- The proportion of the credit limit that was utilised*
- How the credit limit was utilised*
- Account management of other NewDay accounts*
- Internal and external repayment plans*
- Payday loan history*

- *Arrears status of external accounts*
- *Overall external credit Miss H had access to and utilised'*

*As I had questions about other factors they probed and evaluated, such as income and expenditure changes, I asked for a copy of the mentioned evaluation. NewDay didn't provide a copy and instead referred to the submissions they'd already made. So, considering this and the available information, I'm not persuaded that their evaluation was thorough enough.*

*Also, NewDay made each approach, held information on low income, hadn't updated that information and used CATO information, so I think NewDay should've been more diligent here.*

*If NewDay had been more diligent, I think it more likely than not that they would've discovered Miss H couldn't afford the increases, whether through discussion or by an exception of considering bank statements.*

*I recognise Miss H accepted the three increases and NewDay completed their normal checks and didn't realise she had any issues. But Miss H explains that she accepted the increases as her changing circumstances and reduced income meant she kept getting closer to each limit and more and more in debt. Also, I'm persuaded by Miss H's submissions that she was a vulnerable customer as her debt was affecting her health.*

*So, having considered the above and all the information currently on file, my provisional decision is to partially uphold this complaint, as I think NewDay should've acted more diligently and responsibly, completing more checks before increasing the limit on Miss H's account on 7 April 2022, 6 January 2023 and 4 May 2023.*

*Where borrowers have had use of money, our standard approach to redress in irresponsible lending complaints isn't typically to instruct lenders to write off balances. In this case, I don't think Miss H would've got into debt had NewDay not encouraged her to apply for a limit greater than £450.*

*Also, Miss H is vulnerable and NewDay's actions have impacted upon her mental health which has worsened due to the distress this situation has caused. So, in an attempt to put Miss H back to the position she would've been had a better lending decision been made, I'm requiring NewDay to:*

- *Write off the balance in excess of £450*
- *Discuss and arrange a suitable repayment plan for the £450*
- *Record any adverse payment information sent to CRA's since 7 April 2022*

*I appreciate Miss H would like to see the account closed, however as mentioned I think the original decision to issue a card with a £450 limit was fair and reasonable.*

The second on 20 April 2024, said:

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*In response to my first provisional decision, I received replies from both parties.*

*Miss H said she had nothing to add.*

*NewDay said they:*

- *Agree with the 'rationale behind upholding the complaint from the first credit limit increase in April 2022'.*
- *'Do not agree with the actions they have requested that NewDay Ltd complete to put things right'. And they proposed the following instead of a write off of the balance in excess of £450:*
  - *A refund of proportionate interest, all overlimit fees, all cash advance fees and all late payments fees applied to Miss H's account since April 2022 but only on balances above £450.*
  - *Regarding the refund of proportionate interest, they added that this was the additional amount of interest Miss H will have paid as a result of the credit limit increase. As interest always would've been chargeable on the initial credit limit, this is why a proportionate amount is being refunded and not a full refund of all interest.*

*So, in light of NewDay's response, I again considered the fairest and most reasonable way to put things right.*

*I asked NewDay for information on Miss H's account activity including interest, charges and balances. And, upon receipt of this, I asked Miss H questions to better understand three of her largest transactions, which accounted for most of her balance in excess of £450, and how debt issues meant she had no choice but to use NewDay's money.*

*In the absence of a response from Miss H, although I'm still persuaded that she wouldn't have had debt in excess of £450 had NewDay not encouraged her to apply for a limit increase and then been more diligent, as Miss H has had unexplained use of NewDay's money, I've decided it's fairer to apply our standard approach.*

*So, having looked at the file again and considered how best to put things right:*

- *I'm no longer asking NewDay to write off the balance*
- *Instead, NewDay should:*
  - *Refund proportionate interest, all overlimit fees, all cash advance fees, and all late payments fees applied to Miss H's account since April 2022 but only on balances above £450*
  - *Remove any adverse information from Miss H's credit file added since April 2022*
  - *Provide £150 compensation for the distress caused*
  - *Discuss and arrange a suitable repayment plan with Miss H for the balance in excess of £450*

### **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.*

*I would like to thank both parties for responding to my second provisional decision before the deadline.*

*Miss H said she had nothing further to add.*

*Although NewDay agreed with my second provisional decision, they questioned the reasoning for £150 compensation and there was an exchange about when any CRA markers should be removed, with NewDay highlighting these would normally be removed once the outstanding balance is cleared.*

NewDay did though say '*in the interests of resolving things swiftly for Miss H*', that in addition to paying the £150 compensation and refunding proportionate interest and cash advance fees they would:

- Remove any adverse information recorded on Miss H's credit file since April 2022
- Contact Miss H to discuss and arrange a suitable repayment plan

Although NewDay have agreed to pay £150 compensation, I should further explain that the reason for this requirement is that, from Miss H's testimony, I'm persuaded their decisions to increase her credit limits caused her distress and affected her mental health. And when reconsidering a fair and reasonable outcome, I think NewDay should, in addition to refunding some interest and fees, provide some compensation.

As both parties agree with my provisional decision, my view to partially uphold this complaint remains the same.

So, my final decision is to require NewDay to:

- Refund proportionate interest, all overlimit fees, all cash advance fees, and all late payments fees applied to Miss H's account since April 2022 but only on balances above £450
- Provide £150 compensation for the distress caused
- Remove any adverse information recorded on Miss H's credit file since April 2022
- Contact Miss H to discuss and arrange a suitable repayment plan for the balance in excess of £450

### **My final decision**

For the reasons mentioned in my above provisional decisions, my final decision is that I partially uphold this complaint and I require NewDay Ltd to:

- Refund proportionate interest, all overlimit fees, all cash advance fees, and all late payments fees applied to Miss H's account since April 2022 but only on balances above £450
- Provide Miss H with £150 compensation for the distress caused
- Remove any adverse information recorded on Miss H's credit file since April 2022
- Contact Miss H to discuss and arrange a suitable repayment plan for the balance in excess of £450

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 31 May 2024.

Paul Douglas  
**Ombudsman**