

The complaint

Mr G complains that NewDay Ltd shouldn't have lent to him because it ought reasonably to have realised that he might struggle to repay the debt.

What happened

NewDay approved a credit card for Mr G with a £900 credit limit in May 2017. They increased that limit on several occasions.

Mr G complained to NewDay and said they were wrong to provide credit as it wasn't affordable for him.

NewDay didn't think they were wrong to approve the initial application, but they did accept that the subsequent credit limit increases shouldn't have been provided.

Our investigator didn't think the card should have been approved in the first place. He thought the checks NewDay completed should have led them to make further enquiries as Mr G's payments towards debts he already had with other creditors comprised a significant proportion of his declared income. He thought that had NewDay completed more extensive checks they would have been likely to discover that Mr G didn't have any income and was unlikely to be able to afford the debt. He suggested that NewDay should refund the interest and charges they applied to the account and agree a repayment plan with Mr G for any debt that remained.

NewDay agreed to that resolution, but Mr G didn't think it went far enough. He thought NewDay ought to have known that there was no realistic prospect that he could pay back what they lent and that they should waive the amount the capital as well. The complaint has, therefore, been referred to me, an ombudsman, for a decision.

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 know it will disappoint Mr G, but I agree with the investigator's opinion. I'll explain why.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering what's fair and reasonable here.

I don't think NewDay completed reasonable and proportionate checks when they approved Mr G's credit card. The credit file identified that Mr G owed over £26,000 to other creditors and I think that should have led NewDay to dig deeper as repayments would have been likely to have taken up much of the income Mr G had declared to them. Mr G had also told them he was dyslexic and had difficulty understanding financial information and I think that should have led NewDay to take extra care with the declarations Mr G had made to them about his income and expenditure.

I think NewDay should have verified Mr G's income and, if they had, I think they would have realised he didn't have any income that could sustainably repay the further debt he would take on as a result of this new agreement. In those circumstances, I would agree, and I'm pleased to see that NewDay now do, that the initial credit agreement and subsequent credit limit increases, were unaffordable for Mr G.

Mr G says that it's unfair that NewDay should ask for the initial to be repaid. He's had the benefit of the money he borrowed (the capital) so we'd usually tell the lender to remove all the interest and charges applied from the start – so that a new starting balance consisting of only the amount lent is left - and then deduct any payments already made. We'd usually say that it isn't unfair for the lender to ask for this amount to be repaid. But there will be some circumstances when we don't think this is fair. I'm not persuaded here that Mr G's circumstances merit that. The information NewDay collected from his credit file suggested there were no recent defaults or adverse public records and I've also considered that Mr G had told them he was employed when he wasn't. Taking all of the information into account I don't think there was sufficient evidence at the time of the credit advances that the credit provided would cause financial hardship.

NewDay have already offered to refund fees, interest and charges relating to the credit limit increases applied from October 2017. I can't see that they have added interest to those refunds and the redress I've set out below puts that right for Mr G and includes a refund of the interest, fees, and charges incurred as a result of the original lending decision.

I'm satisfied the redress I have directed results in fair compensation for Mr G in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

As I don't think NewDay ought to have opened the 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 G should pay back the amounts he borrowed. Therefore, NewDay should:

- Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Mr G along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove all adverse information regarding this account from Mr G's credit file.
- Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Mr G for the remaining amount. Once Mr G has cleared the balance, any adverse information in relation to the account should be removed from his credit file.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Mr G 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.

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

Phillip McMahon
Ombudsman

