

The complaint

Mr G, through a representative, says NewDay Ltd irresponsibly lent to him.

What happened

Mr G applied for a credit card from NewDay in August 2019. It was approved with a limit of £1,200. He was then given five credit limit increases until his limit reached £8,000 in December 2021.

He says the card was not affordable and he had to take out more credit to repay it.

NewDay says it carried out proportionate checks that at each stage showed the credit was affordable for Mr G. It adds that Mr G settled his account in full in June 2022 and it is now closed.

Our investigator upheld Mr G's complaint. She said NewDay's checks were not proportionate and better checks would have shown Mr G could not afford the credit.

NewDay disagreed with this assessment and asked for an ombudsman's review. It said its records show that Mr G had sufficient estimated disposable income to afford the account when it was opened.

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 G was affordable and sustainable. Such checks need to be proportionate to things like the credit limits it offered Mr G, 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 G's 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 G's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit.

I can see as part of NewDay's checks when Mr G applied it considered his income, employment and residential status, total level of borrowing held elsewhere and the status of that debt. I think these checks were initially reasonable, but based on the results they

returned and the high initial limit I think NewDay ought to have also considered Mr G's outgoings. I say this because whilst he was not over-indebted or in arrears at the time, he had defaulted on two accounts previously. To be clear, I am not saying this was a reason to decline Mr G's application but before assigning a £1,200 limit it ought to have sought better assurances that its lending would not cause financial harm for Mr G.

I have reviewed Mr G's bank statements from the three months prior to application to understand his outgoings. I am not saying NewDay needed to request bank statements but it is a reliable way for me to understand what better checks would most likely have shown.

They show that after paying all essential costs Mr G had £128 disposable income each month. So after allowing for around £70 a month to repay this card sustainably he would be left with £59 disposable income. This is not a reasonable position for Mr G and so I cannot agree the credit line was sustainably affordable. NewDay argues its checks showed his estimated disposable income to be higher, but for the reasons I set out above I do not find its checks went far enough so this does not change my conclusion.

It follows I don't think NewDay ought to have opened this account with its £1,200 limit for Mr G. Logically, it was therefore wrong he was offered any of the credit limit increases.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below 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.

I am aware Mr G is also unhappy with how NewDay managed his complaint. But this is not something I can look at. There is a difference between a complaint about a financial service and a complaint about how a firm has handled a complaint. I can only look at the former. Mr G's concerns about how NewDay responded to his complaint is not a complaint about its provision of or failure to provide a financial service – it's distinctly about complaint handling. And under our rules I cannot consider complaint handling.

Putting things right

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, and charges (not already refunded) that have been applied.
- As the rework will result 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 any adverse information regarding this account from Mr G's 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.

My final decision

I am upholding Mr G's complaint. NewDay Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 9 October 2024.

Rebecca Connelley
Ombudsman