

## **The complaint**

Mr P complains that NewDay Ltd irresponsibly lent to him.

Mr P is represented by a claims management company in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Mr P himself.

## **What happened**

Mr P was approved for a NewDay branded credit card (which I will refer to as A in this decision), in April 2018 with a credit limit of £300. Mr P was approved for another NewDay credit card (which I will refer to as B in this decision), in March 2020 with a credit limit of £300.

Mr P was approved for another NewDay branded credit card (which I will refer to as C in this decision), in November 2021 with a credit limit of £450. The credit limit on C was increased to £1,200 in August 2022. Mr P was approved for another NewDay credit card (which I will refer to as D in this decision), in February 2024 with a credit limit of £300. Mr P says that NewDay irresponsibly lent to him. Mr P made a complaint to NewDay.

NewDay upheld Mr P's complaint for A, but they did not uphold the complaint for the lending decisions B-D. Mr P brought his complaint to our service.

Our investigator did not uphold Mr P's complaint. She said NewDay had provided the same redress we would have asked them to on A, but the checks for B-D were proportionate, and NewDay made a fair lending decision to approve B-D, including the credit limit increase on C. Mr P asked for an ombudsman to review his complaint.

## **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.

Before agreeing to approve or increase the credit available to Mr P, NewDay needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks NewDay have done and whether I'm persuaded these checks were proportionate.

### *Acceptance for A - initial credit limit (£300)*

As NewDay have upheld this part of Mr P's complaint and they have provided redress in line with what I would have asked them to if I upheld this part of Mr P's complaint, then I have not looked into this lending decision, as it would not be proportionate for me to do so when it has already been upheld by NewDay.

#### *Acceptance for B - initial credit limit (£300)*

I've looked at what checks NewDay said they did when initially approving Mr P's application for B. I'll address the further lending decisions later on. NewDay said they looked at information provided by Credit Reference Agencies (CRA's) and information that Mr P had provided before approving his application. The information showed that Mr P had declared a gross annual income of £11,995. But that's not all NewDay's data showed. The data showed that Mr P had previously defaulted on at least one account only 11 months prior to his application.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing.

While I am mindful that the default was registered 11 months prior to the application, I do note that the checks showed Mr P was not in any arrears at the point of his application, and there were no arrears in the six months prior to his application. So I can't fairly say that NewDay had signs to show Mr P was struggling financially just prior to his application for B as he was up to date with his active payments leading up to B being approved.

Mr P is showing a debt to income ratio of 59.14%. But NewDay were able to receive information from the CRA that Mr P was spending £174 a month on his credit commitments. NewDay had calculated that Mr P had disposable income of £63.99 a month once his expenditure had been met.

There were factors which could indicate that further checks should have been carried out by NewDay, such as the default being less than one year prior to the application to B, the debt to income ratio, and the low disposable income, however, as the data shows Mr P never used the card at all and there is no activity showing, then there would be no redress due to Mr P if I found that further checks would have shown the lending was unaffordable.

So it would not be proportionate for me to ask Mr P for further information around the time of this lending decision. As there was no activity on B, there would also be no adverse information being registered to the CRA's either. So there would be no redress due to Mr P here, even if the checks showed the lending would be unaffordable or unsustainable, as the lending decision had no measurable impact on Mr P with him not using B.

#### *Acceptance for C - initial credit limit (£450)*

I've looked at what checks NewDay said they did when initially approving Mr P's application for C. The information showed that Mr P had declared a gross annual income of £27,000. I note that Mr P's income had more than doubled since B was approved only in the previous year, which is quite a high increase. There were no new defaults being reported by the CRA since B was approved for, and Mr P was not showing any arrears.

Since the previous year when Mr P was approved for B, his credit commitments had increased from £174 a month, to £482 a month, and his debt to income ratio at the application stage for C was showing as 46.09%. So as Mr P declared he earned £27,000, his unsecured debt would be around £12,444 as opposed to the previous year (B application stage) of £7,093.

Although NewDay had again estimated Mr P's outgoings, there is no calculation showing for his housing costs. This is something which NewDay had calculated for with B. So I'm persuaded that NewDay should have made further checks to ensure the lending was

affordable and sustainable for Mr P. It would have also given them the opportunity to check how Mr P's income had more than doubled in a short period of time, and to see if Mr P had a reliance on borrowing as his unsecured debt had increased by over 50% since the previous years' application checks for B.

There's no set way of how NewDay should have made further proportionate checks. One of the things they could have done was to contact Mr P to check with him the income was correctly recorded, and to check why his debt had increased so much in a relatively short period of time. Or they could have asked for his bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for him.

I asked Mr P if he could provide his bank statements leading up to the acceptance of C, as part of a proportionate check that NewDay could have taken based on what their data showed. I also asked Mr P if he could recall getting a pay rise or promotion before C was approved due to his income being substantially higher than his last application. Mr P told me that he didn't get a pay rise, and he wrongly entered the household income into the income field. So if NewDay would have completed further checks based on the income discrepancy, I'm persuaded that it would have come to light that Mr P's income wasn't correctly recorded, which also could affect the affordability assessment they carried out.

I've reviewed the bank statements Mr P provided me to see if NewDay made a fair lending decision in approving C. Although Mr P has provided more than three months' worth of bank statements prior to this lending decision, it would only be proportionate for me to review three months' worth of his bank statements here.

The bank statements are in Mr P's sole name. So if NewDay had requested these as part of a proportionate check, they may expect the credits to the account to be Mr P's income solely. I'm not persuaded that they would be unreasonable to do so here.

Mr P's statements show a steady income crediting his account. They also show benefits being credited to his account on a weekly basis. Mr P does receive credits for different amounts regularly from a third party, so it would appear to NewDay if they would have looked at the statements as part of a proportionate check, that Mr P wasn't solely paying for all of the outgoings.

I do note that Mr P's debt outgoings are higher than what NewDay were told by the CRA. But based on how Mr P was managing his bank account in the three months prior to C being approved, it would still appear as if he had the affordability to be able to sustainably afford repayments for C.

Mr P's bank account did not show him becoming overdrawn in the three months prior to C being approved, nor any direct debits being returned in this timeframe. So if NewDay had completed further checks which would have been proportionate in this instance for the reasons I've already given, then I'm persuaded they still would have approved C, and I'm persuaded that a fair lending decision was made here to approve the £450 credit limit for C.

#### *August 2022 credit limit increase for C - £450 to £1,200*

I've looked at what checks NewDay said they did when increasing the credit limit on C to £1,200. Mr P exceeded his credit limit on C in four consecutive months, which could be a sign of financial difficulty. He also incurred a late payment fee shortly before NewDay increased the credit limit on C to £1,200. So this also could be a sign of financial difficulty, or they could be genuine oversights from Mr P.

I'm persuaded that these issues appear to be an oversight from Mr P. I say this because Mr

P had managed to make repayments in each month he was required to – even in the same month he missed his payment. Mr P on occasion also made repayments which were over 10% of his credit limit, which could suggest he had the affordability to be able to afford repayments for a higher credit limit.

The data from a CRA shows that Mr P had unsecured borrowings which were higher than when C was approved. But the data shows that Mr P's overall unsecured borrowings were reducing month on month leading up to the credit limit increase to £1,200. So this could suggest that Mr P was able to repay not just the interest on his debt, but some of the capital also.

So I'm persuaded that the checks which NewDay carried out prior to the £1,200 credit limit were proportionate, and that NewDay made a fair lending decision to approve the credit limit on C to £1,200.

#### *Acceptance for D - initial credit limit (£300)*

I've looked at what checks NewDay said they did when initially approving Mr P's application for D. The information showed that Mr P had declared a gross annual income of £27,500. This was not too dissimilar to what he declared as his income when he was approved for C. And the further checks on C would have shown credits into Mr P's account which would support the accuracy of this information.

There were no new defaults being reported by the CRA since B was approved for, and Mr P was not showing any arrears on any active accounts he had. But the checks showed that Mr P had become more indebted since the last lending decision on C, as he was showing as having a debt to income ratio of 91.12%. So as Mr P declared he earned £27,500, his unsecured debt would be around £25,058.

So based on the increase in his unsecured debt, I'm persuaded that NewDay should have made further checks to ensure the lending was affordable and sustainable for Mr P. As I've previously mentioned, there's no set way of how NewDay should have made further proportionate checks.

One of the things they could have done was to contact Mr P to check with him why his unsecured debt had increased by the amount it had since the last lending decision, and to ensure he could sustainably afford repayments for a £300 credit limit. Or they could have asked for his bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for him.

I asked Mr P if he could provide his bank statements leading up to the acceptance of D, as part of a proportionate check that NewDay could have taken based on what their data showed.

I've reviewed the bank statements Mr P provided me to see if NewDay made a fair lending decision in approving D. Although Mr P has again provided more than three months' worth of bank statements prior to this lending decision, it would only be proportionate for me to review three months' worth of his bank statements here leading up to the lending decision.

Again, the bank statements are in Mr P's sole name. So if NewDay had requested these as part of a proportionate check, they may expect the credits to the account to be Mr P's income solely. I'm not persuaded that they would be unreasonable to do so here.

Mr P's statements do show evidence of borrowing which could be a sign of financial difficulty. I note that there was one occasion in November 2023 where Mr P had £5,000

crediting his account from a third party lender. But it does appear that Mr P had used most of this money to repay other debt. So refinancing his debt may have enabled Mr P to pay less interest or lower his monthly repayments towards his debt.

There were other instances of Mr P borrowing prior to D being approved with lower amounts. None of these appear to be payday loans, and it appears that NewDay were able to get information from the CRA they used prior to approving D to see how much Mr P was spending on a monthly basis towards his credit commitments. So they would have been able to include the new repayments in their affordability checks.

Mr P's statements show a steady income crediting his account. They also show benefits being credited to his account. Mr P does receive credits for different amounts regularly from a third party, so it would appear to NewDay if they would have looked at the statements as part of a proportionate check, that Mr P wasn't solely paying for all of the outgoings.

Mr P's bank account did not show him becoming overdrawn in the three months prior to D being approved, nor any direct debits being returned in this timeframe. It does appear that Mr P also has access to savings/investments. I say this because his statements show payments going to financial institutions and one of the references is "save". There are multiple payments being made to what appears to be a cryptocurrency company.

Mr P gets credits into his account at times during the three months leading up to D being approved which appear to be from either a savings account, a firm which handles cryptocurrency, and a financial institution which has the reference "*withdrawal*", which would indicate this was savings/investments being withdrawn (as opposed to more borrowings which it would be more proportionate to say something such as "*loan*").

So if NewDay had completed further checks which would have been proportionate in this instance for the reasons I've already given, then I'm persuaded they still would have approved D, and I'm persuaded that a fair lending decision was made here to approve the application for D.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that NewDay lent irresponsibly to Mr P or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here. So it follows I don't require NewDay to do anything further.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 11 February 2025.

Gregory Sloanes  
**Ombudsman**