

## The complaint

Mrs M complains that NewDay Ltd irresponsibly lent to her.

## What happened

Mrs M was approved for an NewDay credit card (which I will refer to as A in this decision), in August 2020 with a credit limit of £500. I have detailed the credit limit changes below:

November 2021	£500 to £1,000
August 2022	£1,000 to £2,000
January 2023	£2,000 to £3,000

Mrs M was approved for another NewDay credit card (which I will refer to as B in this decision), in September 2022 with a credit limit of £1,500. And Mrs M was approved for another NewDay credit card (which I will refer to as C in this decision), in November 2023 with a credit limit of £1,200. Mrs M says that NewDay irresponsibly lent to her. Mrs M made a complaint to NewDay, who did not uphold her complaint. Mrs M brought her complaint to our service.

Our investigator partially upheld Mrs M's complaint. She said NewDay shouldn't have approved C based on their data for how Mrs M was managing her other NewDay accounts prior to the acceptance of C. Mrs M asked for an ombudsman to review the complaint. She said she didn't use an overdraft as her bank declined her application for an overdraft a few times. She said she went without basic items to ensure she met her repayments, and she became stuck in a rut, having to take out further credit.

Mrs M said she made an irresponsible lending complaint with another provider, and they removed interest and charges, but NewDay didn't do this despite giving her more credit, then further credit.

## 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.

Firstly, I'm aware that I've only summarised Mrs M's complaint points. And I'm not going to respond to every single point made by her. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome. I've considered what Mrs M has said about her other complaint with another provider, however, I can only look into the actions of NewDay here, and whether they made fair lending decisions. It is up to individual companies if they decide to defend a complaint or not.

Before agreeing to approve or increase the credit available to Mrs M, NewDay needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. 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 (£500)*

I've looked at what checks NewDay said they did when initially approving Mrs M's application for A. I'll address the other lending decisions later on. Mrs M declared a gross annual income of £9,000. NewDay were able to see from the Credit Reference Agency (CRA) they used that Mrs M was paying £31 a month for her credit commitments.

The data also showed that Mrs M had no County Court Judgements (CCJ's), no defaults, and no accounts in arrears prior to A being approved. So I'm satisfied that NewDay's checks here were proportionate, and NewDay made a fair lending decision to approve A.

#### *November 2021 credit limit increase for A - £500 to £1,000*

I've looked at what checks NewDay said they did when increasing the credit limit on A to £1,000. The data showed that Mrs M had unsecured debt of around a third of her previously declared annual income, but the data showed that Mrs M had no arrears on any accounts prior to the credit limit increase.

NewDay would also have a history of how Mrs M managed her account since it was opened. They would have been able to see there were no late fees or overlimit fees, and that Mrs M frequently made repayments higher than her minimum payment, which may indicate she had the affordability to be able to sustain a higher credit limit.

Based on the checks NewDay completed, I'm persuaded that these were proportionate, and that NewDay made a fair lending decision to increase the credit limit to £1,000.

#### *August 2022 credit limit increase for A - £1,000 to £2,000*

I've looked at what checks NewDay said they did when increasing the credit limit on A to £2,000. Although Mrs M had no late fees or overlimit fees, and she had no arrears on her accounts, the data shows that Mrs M's unsecured borrowings had increased significantly since the last lending decision NewDay made.

Mrs M's unsecured borrowings had increased to more than 50% of her originally declared annual income. So I'm persuaded that since Mrs M's unsecured debt kept increasing, then NewDay should have carried out further checks to ensure that the doubling of her credit limit would be affordable and sustainable for Mrs M. While Mrs M did sometimes pay more than her minimum repayment, it often wasn't significantly more than the minimum repayment.

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 Mrs M to get an understanding of why her debt was much higher than when the credit limit was last increased. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Mrs M has provided her bank statements for the three months leading up to the £2,000 credit limit increase. Mrs M's bank statements show the account is held in joint names, but she has confirmed to me the other account holder does not use the account, and he doesn't have a debit card for the account.

Mrs M's statements show that she has more income crediting the account than what she told NewDay prior to A being accepted. So it would appear she had an increase to her income since this time. The statements show her bank account is well ran, with no returned direct debits, and Mrs M does not enter into an overdraft in the three months prior to the credit limit increase.

So if NewDay had completed further checks, which would have been proportionate to do so in this instance, then I'm persuaded that they still would have increased the credit limit to £2,000, and I'm persuaded that they made a fair lending decision here.

#### *Acceptance for B - initial credit limit (£1,500)*

I've looked at what checks NewDay completed when they accepted B. This lending decision was a month after they had approved the credit limit increase to £2,000 on A. So NewDay would be aware of how Mrs M was managing her debt with them.

Mrs M had declared a gross annual income of £16,500. NewDay used industry standard modelling figures to calculate living costs and housing costs for Mrs M. They were also able to get information from the CRA that Mrs M had monthly credit commitments of around £228 a month.

Mrs M's unsecured debt level was not too dissimilar from the last lending decision on A. The CRA reported no CCJ's, defaults or arrears on Mrs M's credit file. So I'm persuaded that the checks that NewDay carried out here were proportionate, and NewDay made a fair lending decision to approve B.

#### *January 2023 credit limit increase for A - £2,000 to £3,000*

I've looked at what checks NewDay said they did when increasing the credit limit on A to £3,000. Although Mrs M had no late fees or no arrears on her accounts, the data shows that Mrs M's unsecured borrowings had increased significantly since the last lending decision NewDay made. And she had also incurred an overlimit fee.

Mrs M's unsecured borrowings had increased by nearly 50% from the last lending decision on A, and coupled with Mrs M exceeding her credit limit, I'm persuaded that NewDay should have carried out further checks to ensure that the increase to her credit limit on A would be affordable and sustainable for Mrs M. While Mrs M did sometimes pay more than her minimum repayment, it often wasn't significantly more than the minimum repayment.

Again, 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 Mrs M to get an understanding of why her debt was much higher than when the credit limit was last increased, and to find out if exceeding her credit limit was a genuine oversight. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Mrs M has provided her bank statements for the three months leading up to the £3,000 credit limit increase. Mrs M's bank statements again show her account is well ran, with no returned direct debits, and Mrs M does not enter into an overdraft in the three months prior to the credit limit increase. There also doesn't appear to be any credits into her account from lending providers.

So if NewDay had completed further checks, which would have been proportionate to do so in this instance, then I'm persuaded that they still would have increased the credit limit to £3,000, and I'm persuaded that they made a fair lending decision here.

### *Acceptance for C - initial credit limit (£1,200)*

As both Mrs M and NewDay accepted our investigator's view that an unfair lending decision was made here, then I'm not minded to interfere with this.

I've considered what Mrs M has said about her not using an overdraft as her bank declined her application for an overdraft a few times. But NewDay would not be aware of this, and I wouldn't expect them to be aware of this considering that Mrs M's account appeared to be well ran.

I've also considered what Mrs M has said about her going without basic items to ensure she met her repayments, and she became stuck in a rut, having to take out further credit. But if NewDay would have looked at her bank statements as part of a further check where I've indicated in previous sections it would have been appropriate for them to do so, her statements wouldn't give NewDay the impression she was going without basic items to meet her repayments.

I say this as her statements show supermarket shopping frequently, and outgoings for utilities, and other basic outgoings. There are times where purchases were made at clothing companies, and non-essential expenditure sometimes appears on her statements. NewDay would have been able to see that Mrs M was able to sustainably service her unsecured debt, and she had no returned direct debits. So I'm not persuaded that NewDay would have taken different action if they had looked at Mrs M's bank statements where it was proportionate to do so.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed at the end of this decision results in fair compensation for Mrs M in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

### **Putting things right**

Our investigator has suggested that NewDay takes the actions detailed below, which I think is reasonable in the circumstances. In addition to this, if NewDay do not own the debt anymore for C, then they should also transfer any debt back to themselves if it has been passed to a debt recovery agent or liaise with them to ensure the redress set out below is carried out promptly.

### **My final decision**

I uphold this complaint in part. NewDay Ltd should take the following actions;

Card C:

NewDay should arrange to transfer any debt back to themselves if it has been passed to a debt recovery agent or liaise with them to ensure the redress set out below is carried out promptly;

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 Mrs M 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 her credit file;

Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Mrs M for the remaining amount. Once Mrs M has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

*\*If NewDay considers that they are required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mrs M how much they've taken off. They should also give Mrs M a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 4 February 2025.

Gregory Sloanes  
**Ombudsman**