

## **The complaint**

Mr S complains that NewDay Ltd didn't do enough to safeguard him when he was gambling and spending high volumes with an overseas online 'mystery box' seller.

## **What happened**

Mr S had five credit cards with NewDay under the brand names, Pulse, Fluid and Aqua. In June 2023 Mr S contacted NewDay to inform it he had a gambling addiction which he was addressing. He complained that NewDay had allowed him to use his accounts to make significant multiple transactions on an online gambling site and as a result was in a lot of debt.

NewDay initially addressed the complaint on an affordability basis and partially upheld. For the Pulse credit card it agreed that it should not have increased the credit limit on this card on 24 June 2021 from £1,500 to £2,250. It had increased the credit limit a further four times up to £6,250. It refunded £12 in overlimit fees, £75.15 in cash advance fees and proportionate interest totalling £945.21. It was satisfied it had provided the other accounts correctly.

NewDay issued a second final response letter concerning Mr S's use of the Pulse credit card for gambling transactions. It said that the websites Mr S had used (H and L) were not based in the United Kingdom (UK) and as such didn't fall under the UK gambling regulations and laws.

Mr S wasn't satisfied and brought his complaint to this service. He said NewDay had allowed him to gamble on the mystery box sites, H and L, using his Pulse credit card, when all other cards would not. He said he used this card so much he spent over £13,000 in one month alone, June 2023. Mr S said NewDay allowed him to transfer more money and make balance transfers to free up more balance to gamble again.

Our investigator concluded that while Mr S's spending activity wasn't covered by UK gambling regulations the volume and high value of transactions on his Pulse account in limited periods should have alerted NewDay to possible compulsive spending. And it should have responded to it when it first became apparent in 2022. However, he noted that NewDay had upheld Mr S's complaint relating to this account concerning affordability and had refunded interest and fees charged above the previous £1,500 limit. Our investigator also concluded that NewDay should refund all the fees and interest that had been applied to one of his Fluid accounts as this account had been opened after Mr S had informed it of his gambling addiction.

Mr S wasn't satisfied and asked for a decision from an ombudsman. He queried whether the interest and fees calculated by NewDay for his Pulse account were correct. He believed the amount should've been higher. He wanted to know what the repercussions were on NewDay for allowing him to spend some £40,000 on gambling on a credit card.

I issued a provisional decision on 21 January 2025. I said:

*NewDay has accepted that it shouldn't have increased the credit limit on Mr S's Pulse account from June 2021. While it has refunded some interest and charges it hasn't confirmed if it will refund non-sterling transaction fees.*

*I've looked at Mr S's credit card statements for his Pulse account. Between 14 March 2022 and 7 May 2022 Mr S spent over £19,000 with H and L, two mystery box websites, through multiple transactions up to £422 at a time. In the statement dated 8 May 2022 I can see the credit limit is £4,250 and there is over £15,000 of new transactions. Mr S was able to clear his balance but between 21 April and 13 June 2023 he again made multiple payments to H totalling in excess of £19,000. In the statement dated 7 June 2023 the credit limit is £6,250 and there is over £13,000 of new transactions. These transactions are significant and while I accept the websites Mr S was using fell outside of the UK gambling laws and regulations, I do think Mr S's spending patterns in 2022 and 2023 were unusual. The Financial Conduct Authority ("FCA") released guidance to financial businesses to monitor accounts for unusual activity.*

*In its final response NewDay said*

*"I am sorry to hear you were experiencing financial difficulty. I can see you contacted us on 10 May 2022 and as such, we applied the relevant holds to your accounts."*

*I think the transactions above should've been flagged as unusual and worthy of investigation, especially those in 2023 after Mr S had indicated he was in difficulty. NewDay should've contacted Mr S to check he was comfortable with the transactions and amount of money coming in and out of the account and that this was not something that was causing him harm.*

*NewDay has repaid interest accrued as a result of it increasing the credit limit on the Pulse card after June 2021, as well as cash advance fees and over limit fees. But I think it should go further. The transactions to H and L involved non-sterling transaction fees. For example in the April 2022 annual statement the non-sterling transaction fees total £160.73. Each single transaction to H and L, of which there are many, was subject to a non-sterling transaction fee.*

*In his view our investigator said:*

*"You have already upheld Mr S's complaint in relation to his Pulse card from the credit limit increase to £2,250 in June 2021, and refunded the interest and fees charged above the previous £1,500 credit limit and removed any adverse information on his credit file from that date. I think this is a fair settlement for that account and is in line with what we would have asked.*

*...However, NewDay gave Mr S his Fluid account ending XXXX, after he'd informed you of his gambling problem. So, I think you should also refund all of the fees and interest that have been applied to that account."*

*I asked NewDay to explain if foreign exchange charges were included in the redress awarded to Mr S when it upheld the complaint regarding the Pulse account. NewDay said:*

*"At the time of calculating the redress, we refunded interest/proportionate interest, together with late, over-limit and cash advance fees. We have recently reviewed our policy on remediation and in the process of including*

*foreign exchange, balance transfer, money transfer and returned direct debit fees.”*

*I asked NewDay to calculate the fees to be refunded. It only calculated the fee to be refunded for the Fluid account, £28.50, per our investigator’s new finding. But it’s still not clear to me if NewDay intends to refund the non-sterling transaction fees on the Pulse account. NewDay accepts it should not have increased the credit limit after June 2021 and I’m persuaded NewDay should have responded to the signs of unusual spending patterns by Mr S. So I think it fair and reasonable that it refund all non-sterling transaction fees associated with the mystery box sites H and L from the Pulse account, along with any balance transfer, money transfer and returned direct debit fees after June 2021.*

*In addition to this, subject to any further information I might receive, NewDay should pay Mr S £200 in recognition of its failure to make contact and offer him support, particularly in the period after he made contact in 2022.*

*Mr S has expressed some frustration that NewDay allowed him to spend £40,000 on gambling with no repercussions for NewDay itself. I do understand Mr S’s frustration here. It’s my role to make a decision based on the individual circumstances of the complaint. It’s not my role to look at the procedures and working practices of the business nor is it to punish the business.*

Mr S accepted my findings. NewDay didn’t respond.

### **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.

As Mr S has accepted my provisional decision and NewDay hasn’t provided any further comments or evidence, I see no reason to depart from its conclusions.

### **Putting things right**

To put things right NewDay Ltd must:

- Refund all non-sterling transaction fees associated with the mystery box sites H and L from the Pulse account, along with any balance transfer, money transfer and returned direct debit fees after June 2021.
- Refund fees of £28.50 in relation to his Fluid account.
- Pay Mr S £200 in recognition of its failure to make contact and offer him support.

### **My final decision**

My final decision is that I uphold this complaint and NewDay Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 6 March 2025.

Maxine Sutton  
**Ombudsman**