

The complaint

Miss I complains NewDay Ltd trading as Marbles (NewDay) acted irresponsibly by failing to conduct proportionate checks prior to approving her for lending. She says had they done they would have seen she wasn't in a position to handle additional credit.

What happened

In January 2023, Miss I took out a credit card with NewDay. The card had an initial credit limit of £1,200. In June 2023, NewDay increased Miss I's credit limit to £2,200, before increasing it a second time to £2,950 in October 2023.

In June 2024, Miss I complained to NewDay that they'd failed to adequately assess her for credit and as a result she'd been provided with credit she couldn't afford.

In July 2024, NewDay sent Miss I their final response, but they didn't uphold her complaint. In summary, NewDay said they were satisfied they acted responsibly when agreeing to lend and that their affordability assessments were appropriate and proportionate.

Miss I disagreed with NewDay's response, so she referred her complaint to our service.

One of our Investigators looked into things and thought the checks NewDay carried out prior to each lending decision were proportionate. And, because NewDay's checks showed Miss I had enough disposable income to afford the monthly repayments, he didn't think they'd done anything wrong by agreeing to lend to her.

Miss I disagreed with our Investigator saying there were significant inconsistencies between the data she'd been provided in response to a Subject Access Request (SAR) she'd received from NewDay and the information set out in our Investigator's view – specifically her income and expenditure towards housing costs.

Our Investigator said the income discrepancy provided by Miss C related to data taken in September 2024 but in any case, NewDay had used the lower of the figures, £25,000, when carrying out their income and expenditure assessment. Regarding the housing cost figure, he explained NewDay had used data from the credit reference agencies (CRA's) but that even if her specific housing costs were higher, the lending still looked affordable.

Miss I remained unhappy saying, in summary, at the time of the lending her credit usage was very high, she'd missed or been late making payments and there were clear indications she was in financial difficulties.

Our Investigator's opinion remained unchanged, saying he'd considered the points raised by Miss I previously, so he had nothing further to add.

Because no resolution could be reached, this case has been passed to me to decide.

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.

Having done so, although I appreciate it'll be a disappointment to Miss I, I'm not upholding her complaint and for much the same reasons as our Investigator. I'll explain why.

How we handle complaints about irresponsible and unaffordable lending is explained on our website. It's this approach I've used when deciding Miss I's complaint. NewDay needed to ensure that they didn't lend irresponsibly, which in practice means they needed to carry out proportionate checks to be able to understand whether any lending was affordable for her before agreeing to provide the credit.

The rules that apply to credit agreements are set out in the FCA's consumer credit sourcebook (CONC). Section 5.2A of CONC is relevant here, as – among other things – it talks about the need for businesses like NewDay to complete reasonable and proportionate creditworthiness assessments before agreeing to lend someone money.

I've considered these rules by asking the following questions:

- Did NewDay complete reasonable and proportionate checks to satisfy themselves Miss I would be able to meet the repayments of the borrowing without experiencing significant adverse impact on her financial situation?
 - If they did, was their decision to lend to Miss I fair?
- Did NewDay act unfairly or unreasonably in any other way?

For ease, I'll first address Miss I's initial credit card application before going on to address each increase to her credit limit.

Did NewDay complete reasonable and proportionate affordability checks?

What's considered reasonable and proportionate in terms of the checks a business undertakes will vary depending on the details of the borrowing and the consumer's specific circumstances at the time.

Initial credit card application –

Here, NewDay approved a credit card for Miss I with a limit of £1,200. This meant if she was to have utilised the full limit straightaway, she would have needed to have made monthly repayments of around £95 to have paid back the borrowing within a reasonable period of time.

So, I think in the first instance NewDay approved a credit limit for Miss I that was fairly modest both in respect of the amount of credit and the monthly repayments I think they ought to have factored in, so my starting point is that I'd expect to see NewDay to have gained an understanding of Miss I's financial situation, proportionate to the credit in question.

At the time of her application, Miss I declared her annual income as being £25,000 from which NewDay estimated her monthly income to be around £1,793. Miss I declared she had no dependents whom were reliant upon her financially, and using statistical data, NewDay estimated her monthly expenditure to be around £440 towards the cost of living, around £574 towards housing costs and £67 towards existing credit commitments. NewDay then concluded Mrs C was likely to have had around £672 disposable income each month.

In addition to the information Miss I declared, NewDay also completed a credit check to help

them understand how she managed both her current and existing finances.

NewDay say the credit check showed them Miss I wasn't in arrears on any of her active credit accounts at the time of the application, she hadn't defaulted on any credit accounts for 66 months and she wasn't subject to any repayment plans. NewDay saw Miss I also hadn't entered into an Individual Voluntary Arrangement (IVA) in the three years prior and nor where there any signs of bankruptcy.

So, NewDay established Miss I was likely to have a healthy disposable income each month based on the checks they completed. And when looking at the data the credit check returned, I've seen no reason I think ought to have prompted them to complete further checks. I wouldn't expect NewDay to do more.

Overall, I think NewDay completed reasonable and proportionate checks and from all the evidence and information they gathered, I'm satisfied what they saw allowed them to fairly assess if the initial agreement was affordable and sustainable for Miss C.

Credit limit increase to £2,200 in June 2023 –

NewDay increased Miss I's credit limit to £2,200. This meant if she was to have utilised the full limit straightaway, her monthly repayments would needed to have increased to around £176 to have paid back the borrowing within a reasonable period of time.

So here, I think the credit limit NewDay approved was by this point fairly substantial with the potential of not insignificant monthly commitments. So, my starting point is that I'd expect to see NewDay to have gained a good understanding of Miss I's current financial situation, proportionate to the credit in question.

At the time of NewDay first increasing Miss I's credit limit, they verified her income by conducting an automated check via a CRA. The check told NewDay Mrs C earned a monthly income of around £3,200.

NewDay used information from the CRA's, alongside statistical data to understand Miss I's existing commitments and calculated her expenditure to be around £703 towards the cost of living, £282 towards housing costs and £277 towards existing credit commitments. NewDay then concluded Miss I was likely to have had around £1,938 disposable income each month.

In addition to the above, NewDay also used information from the CRA's to help them understand how she managed both her current and existing finances, alongside what they knew about how she'd maintained the NewDay credit card since the account was opened.

NewDay saw Miss I had not missed or been late making any payments to her external commitments, nor had she entered into any payment arrangements or been subject to any defaults since her initial application. They could also see that whilst Miss I had incurred one overlimit fee shortly after the agreements inception, this was rectified the following month and overall she'd managed the credit card with them well.

Credit limit increase to £2,950 in October 2023 –

NewDay increased Miss I's credit limit to £2,950. This meant if she was to have utilised the new limit in full straightaway, her monthly repayments would needed to have increased to around £240 to have paid back the borrowing within a reasonable period of time.

Again, I think the credit limit NewDay approved was by this point fairly substantial, so my starting point is that I'd expect to see NewDay to have gained a good understanding of Miss

I's current financial situation, proportionate to the credit in question.

At the time of NewDay increasing Mrs C's credit limit, they verified her income by conducting an automated check via a CRA. The check told NewDay Miss I earned a monthly income of around £2,716.

NewDay used information from the CRA's, alongside statistical data to understand Miss I's existing commitments and calculated her expenditure to be around £640 towards the cost of living, £191 towards housing costs and £349 towards existing credit commitments. NewDay then concluded Miss I was likely to have had around £1,535 disposable income each month.

NewDay saw Miss I had continued to manage both her external credit and the credit card held with them well, again not having missed or been late making any payments to her external commitments, nor had she entered into any payment arrangements or been subject to any defaults since her initial application. They could also see that whilst Miss I had incurred one further overlimit fee since the last increase, this was rectified the following month and overall she'd continued to manage the credit card with them well.

So, in summary, while I acknowledge there was one occasion on which Miss I exceeded her limit prior to each of the credit limit increases, I'm satisfied NewDay would've seen these to be an isolated incident when looking at the other data returned by the CRA's and based on Miss I's overall maintenance of her account with them. Having considered the checks NewDay completed and what they found as a result of those checks, I wouldn't expect NewDay to do more.

Overall, I think NewDay completed reasonable and proportionate checks prior to each of the credit limit increases and from all the evidence and information they gathered, I'm satisfied what they saw allowed them to fairly assess if each increase was affordable and sustainable for Miss I.

But my above conclusions don't automatically mean NewDay went on to make fair lending decisions – it's these I'll go on to look at next.

Did NewDay make fair lending decisions?

Initial credit card application –

NewDay took Miss I's declared annual income and from that estimated she earned around £1793 a month.

In addition, when calculating Miss I's expenditure, NewDay used a combination of her actual existing credit commitments alongside statistical data. After doing this, NewDay found Miss I likely had a monthly expenditure of around £1,081, which left her a disposable monthly income of around £672.

As I've explained, I think the maximum repayment towards the new credit card that I think NewDay ought to have factored in, was £95 a month, so a figure well within the disposable income NewDay had calculated.

Based on what I've seen, I'm satisfied their checks were reasonable and proportionate. I'm also satisfied they made a fair lending decision based on the outcome of those checks so I'm not upholding this complaint about the initial account opening.

Credit limit increase to £2,200 in June 2023 –

NewDay verified Miss I's net monthly income and found the figure to have increased from the equivalent annual income figure declared by her at the time of the application.

In addition, when calculating Miss I's expenditure, NewDay used a combination of her actual existing credit commitments alongside statistical data. After doing this, NewDay found Miss I had a likely monthly expenditure of around £1,262, which left her a disposable monthly income of around £1,938.

As I've explained, I think the maximum repayment towards the new credit card that I think NewDay ought to have factored in, was £176 a month, so a figure well within the disposable income NewDay had calculated.

Credit limit increase to £2,950 in October 2023 –

NewDay verified Miss I's net monthly income to have dropped slightly since her last credit limit increase, but the figure remained higher than the income she originally declared at the time of the application.

In addition, when calculating Miss I's expenditure, NewDay used a combination of her actual existing credit commitments alongside statistical data. After doing this, NewDay found Miss I had a likely monthly expenditure of around £1,181, which left her a disposable monthly income of around £1,535.

As I've explained, I think the maximum repayment towards the new credit card that I think NewDay ought to have factored in, was £240 a month, so a figure well within the disposable income NewDay had calculated.

I understand Miss I says her expenditure towards housing costs were higher than the data estimate NewDay used. But CONC allows the use of statistical data by businesses when assessing a customer's non-discretionary expenditure, providing they are not aware of any reason that data might not be representative of the consumers situation. I'm not persuaded they ought to have had reason to go further than to have used the statistical data here. And in any case, the disposable income calculated by NewDay allowed for the possibility of Miss I's actual expenditure figure to be somewhat higher than the statistical estimate and for the lending to have still appeared affordable.

So, based on the evidence provided, I'm satisfied NewDay's checks were reasonable and proportionate. I'm also satisfied they made a fair lending decision based on the outcome of those checks for the initial account opening and for each of the three credit limit increases that followed, so I'm not upholding this complaint.

Did NewDay act unfairly or unreasonably in some other way?

From what I've seen, overall, Miss I managed her account well until just prior to raising her complaint with NewDay.

However, as Miss I's complaint made NewDay aware she was struggling financially, I'd expect NewDay to act responsibly and to treat her positively and sympathetically going forward.

I can see in their final response letter, NewDay let Miss I know she could speak to them should she require support managing her account. They also provided Miss I details of third-party organisations that might be able to provide further support.

I've also considered whether NewDay acted unfairly or unreasonably in some other way

given what Miss I's complained about, including whether it's relationship with her might have been unfair under s.140A Consumer Credit Act 1974.

However, for the same reasons I've set out above, I've not seen anything that makes me think this was likely to have been the case.

My final decision

My final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss I to accept or reject my decision before 28 July 2025.

Sean Pyke-Milne
Ombudsman