Financial Ombudsman Service

The complaint

Mr G complains that NewDay Ltd lent to him irresponsibly.

What happened

NewDay provided Mr G with a credit card account in November 2021. Initially, his credit limit was set at £450; Mr G's credit limit was then increased four times in the years that followed, to £1,250 in September 2022, £1,850 and £2,850 in January and June 2023 respectively, and finally to £4,350 in October 2023.

Broadly, Mr G says NewDay's lending decisions eventually put him into a position where he couldn't afford the repayments each month. So, in January 2024, Mr G complained to NewDay; it didn't respond. So, Mr G contacted this Service for an independent review.

An Investigator here reviewed what had happened and, after doing so, concluded that NewDay hadn't lent irresponsibly. Having reviewed Mr G's circumstances from the time, while the Investigator did think NewDay ought to have carried out further checks, he said the credit appeared to be affordable for Mr G – based upon the evidence available. So, overall, NewDay's decision to lend likely would've been the same, even if it had carried out further checks.

Mr G disagreed, and he asked for an Ombudsman's decision. So, as no agreement has been reached, the complaint 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, while I know this will disappoint Mr G, I don't find that his complaint should be upheld. I'll explain why but, before I do, I thought it appropriate to say at the outset how I've noted our Investigator has recently tried to reach Mr G to obtain any further comments or evidence he might wish to provide. Unfortunately, the Investigator wasn't successful in doing so. On balance, though, I consider there to be enough information and evidence already available. So, I see no reason to delay this decision.

Turning to the matter at hand, as I understand it, Mr G is only complaining about the increases to his credit limit – not NewDay's initial lending decision. So, that's what I've reviewed here. The rules and regulations, in place at the time Mr G was provided with the credit, required NewDay to carry out a reasonable and proportionate assessment. That's to determine whether he could afford to repay what he owed in a sustainable manner. This practice is sometimes referred to as an 'affordability assessment' or 'affordability check'.

The checks had to be borrower focussed; that is, relevant to Mr G. So, NewDay had to think about whether repaying the credit sustainably would cause difficulties, or other adverse consequences, for Mr G. In other words, it wasn't enough for NewDay to just consider the likelihood of it getting the funds back – it had to consider the impact of any repayments on Mr G.

Checks also had to be 'proportionate' to the specific circumstances of the lending. In general, what constitutes a proportionate affordability check will be dependent on a number of factors including – but not limited to – the particular circumstances of the consumer (e.g.: their financial history, current situation and outlook, any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they were seeking. I've kept all of this in mind when thinking about whether NewDay did what it needed to before agreeing to lend to Mr G.

First credit limit increase; £450 to £1,250 – September 2022

At the time of approving the first credit limit increase for Mr G, NewDay has said it carried out a credit check with Credit Reference Agencies ("CRAs") and examined the data Mr G provided in his application. The results of that review showed some conflicting information around Mr G's existing external debt; it showed too that he had a default registered against him. Alongside that, from his application, NewDay had Mr G's annual income recorded as £19,000.

Information I have available demonstrates that a default had been recorded against Mr G 45 months prior to this lending decision. Data gathered by NewDay indicates that one CRA did show outstanding external debt, but the others didn't; Mr G has also told us that he owed money at the time – so, overall, I'm satisfied he had some debt elsewhere. Additionally, I've reviewed the credit file which Mr G has more recently provided us – the only external debt it shows at the time was to NewDay itself, for this credit card; a total of £349. That's likely because whatever other debt existed at that point has fallen away from recent reporting given the time that's passed.

In the circumstances, given there was some conflicting information, and evidence of a previous default in Mr G's credit history, I won't disagree with our Investigator when they said that NewDay could have asked some further questions. Overall, though, my view is that the data here doesn't show anything which would've been of particular concern to NewDay.

Largely, that's because nothing adverse was being reported on existing facilities and, on the face of it, Mr G appeared to be managing whatever external commitments he had well, alongside good management of this account. So, even if NewDay had looked more closely at Mr G's circumstances at the time, I don't consider it would've found anything which meant it shouldn't lend. It follows that I don't find NewDay was wrong to do so.

Second credit limit increase; £1,250 to £1,850 – January 2023

NewDay carried out the same checks for this lending decision as it had for the one prior. Again, a historic default was reported – now 49 months ago – and a discrepancy in external debt could still be seen in NewDay's CRA data. It should be noted, though, that the level of external debt being reported by one CRA had fallen quite significantly from the time of the first limit increase in 2022.

Again, it wouldn't have been wrong of NewDay to ask more questions here to understand Mr G's indebtedness, for much the same reasons I outlined above. But overall, the data NewDay reviewed demonstrated that Mr G's external position hadn't worsened; his account was being managed well too. Mr G was repaying more than the contractual minimum and he didn't show any of the usual indicators of financial difficulties – such as late payments, missed payments, or overlimit fees. So, based on how the account with NewDay was being managed, and with nothing new flagging externally, I don't consider it unreasonable of NewDay to have provided this credit limit increase.

Third credit limit increase; £1,850 to £2,850 – June 2023

NewDay continued to carry out the same level of checks it had with other lending decisions. Our Investigator felt that proportionate in the circumstances, and I can see why. On the other hand, it could be argued that NewDay's checks could've gone further at this point. I say that largely because of the amount Mr G's limit was being increased by, only a few months on from his last increase. Either way, based on what NewDay saw when it checked his credit data, and reviewed his account management at this point, it didn't consider Mr G's circumstances to warrant deeper review.

Mr G's financial position remained largely the same as some months prior. He'd incurred no over-limit or late payment fees; his external position hadn't worsened and there were no general signs of financial difficulty. Mr G also continued to repay more than his contractual minimum. On that basis, I don't consider NewDay to have found reason not to approve this credit limit increase.

Mr G has provided his current account statements from the time and I have, for completeness, reviewed those; even if I don't think NewDay ought to have done that at the time. Having done so, even if NewDay had caried out further checks, I think this increase still looks affordable for Mr G. His statements from the time show his current account wasn't overdrawn and that it generally had a positive balance, with a reasonable amount of disposable income.

Fourth credit limit increase; £2,850 to £4,350 – October 2023

By this point, I do think NewDay should've done more to review Mr G's financial position. His limit was about to be increased for the third time in the same year; his new limit, approved here, was almost ten times the initial account opening limit he'd been given. So, I'd consider a proportionate check to be an income and expenditure assessment.

NewDay didn't do that. So, I've used the current account statements Mr G has provided to assess his situation leading up to this lending decision. I've also reviewed the data NewDay did capture; it still showed the same historic default, but also that Mr G's external debt had risen to around £11,000. I've also seen that Mr G received a loan from another lender in September 2023.

Overall, though, there's nothing which leads me to conclude that NewDay was wrong to approve this final credit limit increase. Rather, I think any income and expenditure assessment would've revealed enough disposable income.

I say that because while it's true to say that Mr G's external debt had risen, it wasn't at unmanageable levels; he didn't show any wider signs of financial difficulty, and he'd been paying over, sometimes significantly over, the minimum contractual repayment. Mr G's bank statements continue to reflect an account which was in credit and had a generally healthy balance. So, in summary, I'm not persuaded there is anything that would've flagged to NewDay, at the time, which suggested Mr G was unable to afford the additional credit it was providing him.

I know Mr G has referenced borrowing from elsewhere – I've seen he did indeed borrow from another lender in September 2023 – but I don't think that was a sign he was struggling. Rather, everything I've outlined here broadly suggests that Mr G was managing his NewDay account and his external debt well. Other borrowing, in isolation, doesn't lead me to conclude that something was wrong.

With all of that in mind, I can't fairly determine that NewDay shouldn't have lent at this point.

Overall

The key point to remember here, is that it's only fair and reasonable for me to uphold a complaint in circumstances where I can conclude a lender did something wrong. While I've no doubt Mr G will see things differently, I don't think that NewDay could have known that the payments to this credit card were – or would become – unaffordable at the time of the lending decisions I've studied here; even if it had carried out further checks, it likely still would've reasonably lent.

In closing, I am sorry to disappoint Mr G; I know this won't be the outcome that he's hoping for, and I certainly don't mean to downplay the impact he's said this matter has had on him. But it's for the reasons I've explained that I don't think NewDay acted unfairly or unreasonably towards him. It follows that I'm not upholding this complaint.

Separately, whilst I'm not upholding the complaint, I do want to remind NewDay of its obligations to exercise forbearance moving forward. I would certainly encourage Mr G to keep in regular contact with NewDay about any difficulties he's facing. Additionally, I noted there are other things Mr G has complained to NewDay about and – as I understand it, at least – these are being reviewed separately. Those aspects form no part of my review here.

Finally, I've thought about whether considering this complaint more broadly as being about an unfair relationship under Section 140A of the Consumer Credit Act 1974 would lead to a different outcome. But even if it could (and should) reasonably be interpreted in that way, I'm satisfied this wouldn't affect the outcome in this particular case.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr G to accept or reject my decision before 28 April 2025.

Simon Louth
Ombudsman