

## The complaint

Miss M complains that NewDay Ltd irresponsibly lent to her.

## What happened

Miss M was approved for a credit card (which I will refer to as A in this decision), in November 2021 with a credit limit of £600. I have detailed the credit limit changes below:

March 2022	£600 to £1,600
August 2022	£1,600 to £3,100
December 2022	£3,100 to £4,000

Miss M was approved for another NewDay credit card (which I will refer to as B in this decision), in July 2022 with a credit limit of £300. I have detailed the credit limit changes below:

February 2023	£300 to £450
June 2023	£450 to £1,450
October 2023	£1,450 to £2,200
February 2024	£2,200 to £2,950

Miss M says that NewDay irresponsibly lent to her. Miss M made a complaint to NewDay, who did not uphold her complaint. Miss M brought her complaint to our service.

Our investigator said that NewDay's opening checks on A were proportionate, but the estimated disposable income wouldn't be sufficient for Miss M to take on further credit at that point. She said NewDay made fair lending decisions on B.

NewDay asked for an ombudsman to review the complaint. They said although the estimated disposable income showed that Miss M only had £59.70 each month, she made repayments higher than the minimum repayment which suggested the repayments were affordable.

## 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 Miss 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 of A:*

I've looked at what checks NewDay said happened when initially approving Miss M's application for A. I'll address the credit limit increases (including the acceptance for B) later on. NewDay considered information from a Credit Reference Agency (CRA), and information that Miss M provided to them.

The CRA showed that Miss M had not been in arrears on any accounts at the time of the checks, and in the six months prior to the checks. There was no defaults or County Court Judgements (CCJ's) showing on her credit file. She declared a gross annual income of £16,000.

NewDay completed an affordability assessment prior to A being opened. The figures showed that Miss M would have £59.70 a month estimated disposable income. So because the estimated disposable was so low, I'm not persuaded that NewDay made a fair lending decision here.

I say this because £59.70 was around 5% of Miss M's net monthly income which NewDay had calculated. So even a slight rise in her outgoings could result in negative disposable income for Miss M, not to mention she would have no/low disposable income for any emergencies which may arise.

So although NewDay's checks were proportionate here, I'm not persuaded that they made a fair lending decision to approve A.

Although NewDay have said that Miss M had paid more than the minimum repayment, which would suggest the lending was affordable, they would not have known this prior to A being approved.

#### *Future lending decisions on A only:*

If Miss M's application was not accepted for A, I think there is an argument for saying that Miss M's complaint about the subsequent lending decisions on A should be upheld without making a finding on reasonable and proportionate checks. After all, if matters had played out as the evidence suggests they should have done in January 2018, I'm not persuaded Miss M would've been able to add to the credit.

#### *Acceptance of B:*

I'm mindful that Miss M's financial circumstances could have improved since A was opened, so I'm not persuaded that it would be fair to say that Miss M's complaint about B should be automatically upheld just because I've upheld her complaint about A.

I've looked at what checks NewDay said happened when initially approving Miss M's application for B. I'll address the credit limit increases later on. NewDay considered information from a CRA, and information that Miss M provided to them.

The CRA showed that Miss M had not been in arrears on any accounts at the time of the checks, and in the six months prior to the checks. There was no defaults or CCJ's showing on her credit file.

NewDay completed an affordability assessment prior to B being opened. The figures showed that Miss M would have £901.27 a month estimated disposable income. So it would appear that Miss M's financial circumstances had improved since A was opened, especially as she declared her gross annual income was £25,000 on her application for B, which was more than 50% higher than the gross annual income she declared for A.

Miss M was showing as having a debt to annual income ratio of 14.82%, which would have equated to her having around £3,705 of unsecured debt at the time of the checks.

So I'm persuaded that NewDay's checks were proportionate here and they made a fair lending decision to approve A for Miss M and approve the £300 credit limit for her.

*February 2023 credit limit increase on B - £300 to £450*

I've looked at what checks NewDay made as part of this lending decision. The CRA reported that Miss M's unsecured debt was at £6,583 just prior to the credit limit increase, which was higher than before, but this would equate to slightly over a quarter of Miss M's originally declared gross annual income for B.

NewDay used Current Account Turnover (CATO) data to verify that Miss M had around £1,875 a month crediting her current account. They also used modelling, and information from the CRA to assess Miss M's outgoings, and they concluded that Miss M would be able to sustainably afford repayments for an increased credit limit to £450.

The CRA's didn't show any arrears on any active accounts since B had been opened. NewDay would have also been able to see how Miss M had managed this account since it was opened. Miss M hadn't incurred any late payment fees or overlimit fees since the account had been opened.

Miss M's repayments were typically higher than her minimum required payment, therefore this could suggest that she had the affordability to sustainably make repayments for a £450 credit limit.

So I'm persuaded that the checks NewDay carried out prior to them increasing Miss M's credit limit were proportionate, and that they made a fair lending decision here to increase her credit limit.

*June 2023 credit limit increase on B - £450 to £1,450*

I've looked at what checks NewDay made as part of this lending decision. The CRA reported that Miss M's unsecured debt was at £13,164 just prior to the credit limit increase, which was higher than before. But it appears Miss M had taken out fixed term unsecured debt prior to this decision, as opposed to utilising all of her available credit (she is shown by the checks as using 64% of her available credit).

NewDay used CATO data again to verify that Miss M had around £2,043 a month crediting her current account. They also used modelling, and information from the CRA to assess Miss M's outgoings, and they concluded that Miss M would be able to sustainably afford repayments for an increased credit limit to £1,450.

The CRA's didn't show any arrears on any active accounts since B had been opened. NewDay would have also been able to see how Miss M had managed this account since the last lending decision. Miss M hadn't incurred any late payment fees or overlimit fees since the account had been opened.

Miss M's repayments were typically higher than her minimum required payment, therefore this could suggest that she had the affordability to sustainably make repayments for a higher credit limit.

So I'm persuaded that the checks NewDay carried out prior to them increasing Miss M's

credit limit were proportionate, and that they made a fair lending decision here to increase her credit limit.

*October 2023 credit limit increase on B - £1,450 to £2,200*

I've looked at what checks NewDay made as part of this lending decision. The CRA reported that Miss M's unsecured debt was at £14,752 just prior to the credit limit increase, which was slightly higher than before. But I'm mindful that the increase was lower than the £1,000 credit limit increase as part of the last lending decision on B.

NewDay used CATO data again to verify that Miss M had around £2,211 a month crediting her current account. They also used modelling, and information from the CRA to assess Miss M's outgoings, and they concluded that Miss M would be able to sustainably afford repayments for an increased credit limit.

The CRA's didn't show any arrears on any active accounts since B had been opened. NewDay would have also been able to see how Miss M had managed this account since the last lending decision. Miss M hadn't incurred any late payment fees, but she did incur two overlimit fees.

So this could be a sign of financial difficulty, or it could just be an oversight from Miss M. It does appear to be an oversight here. I say this because Miss M made repayments which were higher than her minimum required payment in both months she incurred the fee, which I wouldn't expect her to be able to make these higher payments if she was having financial difficulty prior to this credit limit increase.

So I'm persuaded that the checks NewDay carried out prior to them increasing Miss M's credit limit were proportionate, and that they made a fair lending decision here to increase her credit limit.

*February 2024 credit limit increase on B - £2,200 to £2,950*

I've looked at what checks NewDay made as part of this lending decision. The CRA reported that Miss M's unsecured debt was at £16,516 just prior to the credit limit increase, which was slightly higher than before.

NewDay used CATO data again to verify that Miss M had around £2,488 a month crediting her current account. They also used modelling, and information from the CRA to assess Miss M's outgoings, and they concluded that Miss M would be able to sustainably afford repayments for an increased credit limit.

The CRA's didn't show any arrears on any active accounts since B had been opened. NewDay would have also been able to see how Miss M had managed this account since the last lending decision. Miss M hadn't incurred any overlimit fees, but she did incur one late payment fee.

So this could be a sign of financial difficulty, or it could just be an oversight from Miss M. It does appear to be an oversight here. I say this because Miss M made a repayment in the month she incurred the fee, and this was the only time up to this point she had made a late payment.

So I'm persuaded that the checks NewDay carried out prior to them increasing Miss M's credit limit were proportionate, and that they made a fair lending decision here to increase her credit limit.

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 Miss 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 take the actions detailed below, which I think is reasonable in the circumstances. But I also think it would be fair for NewDay to 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.

### **My final decision**

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

Card A only:

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 Miss 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 Miss M for the remaining amount. Once Miss 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 Miss M how much they've taken off. They should also give Miss 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 Miss M to accept or reject my decision before 15 May 2025.

Gregory Sloanes  
**Ombudsman**