

## **The complaint**

Mr J complains that NewDay Ltd was irresponsible in its lending to him. He wants all interest and charges refunded along with statutory interest and any adverse information recorded about his account removed from his credit file.

Mr J is represented by a third party but for ease of reference I have referred to Mr J throughout this decision.

## **What happened**

Mr J was provided with a credit card account by NewDay in July 2014. The initial credit limit was £1,200 and this was increased on six occasions, with the highest credit limit being £7,400 in June 2017.

Mr J says that adequate checks weren't carried out before the account was opened and credit limit increases applied. He says he had other debts at the time, and he could only afford to make his minimum repayments.

NewDay issued a final response to Mr J's complaint dated 13 May 2024. It said that when Mr J applied for the account it considered his income and other information contained in his application along with data from the credit reference agencies. It said similar assessments were undertaken before his credit limit increases were applied, along with assessments of how Mr J had managed his account. Based on the available information, NewDay said the account and credit limit increases were responsible.

Mr J referred his complaint to this service.

Our investigator didn't think that NewDay had carried out proportionate checks before the lending was provided. He assessed what proportionate checks would have identified. He requested copies of Mr J's bank statements and credit file from the time, but these weren't provided. However, based on the information that was available he thought that NewDay should have realised that lending wasn't sustainably affordable for Mr J beyond the initial credit limit applied. Therefore, he upheld this complaint from the first credit limit increase.

Because NewDay didn't reply to our investigator's view, this complaint has been passed to me, an ombudsman to issue a decision.

## **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.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit

being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

Mr J was provided with a credit card account by NewDay in July 2014 with an initial credit limit of £1,200. The credit limit was increased on six occasions.

Date	Event	Amount
July 2014	Account opened	£1,200
March 2015	First credit limit increase	£1,500
August 2015	Second credit limit increase	£2,500
January 2016	Third credit limit increase	£3,250
May 2016	Fourth credit limit increase	£4,250
December 2016	Fifth credit limit increase	£5,550
June 2017	Sixth credit limit increase	£7,400

Before the account was opened, NewDay gathered information about Mr J's income and carried out a credit check. Mr J declared an annual income of £19,000 which gave a monthly net income of around £1,319. The credit check showed that Mr J had previously defaulted on debt 18 months prior to the application but that he was up to date with his active credit commitments with no adverse information recorded in the previous six months. Mr J's monthly credit payments were recorded as £17.

While I do not find that the results of the checks meant that the credit card shouldn't have been provided, as Mr J had defaulted on debt 18 months prior I think it would have been reasonable to carry out further checks to ensure that Mr J was in a stable financial position and that the account, with an initial credit limit of £1,200, would be sustainably affordable for him. Our investigator requested copies of Mr J's bank statements and credit report from the time but these haven't been provided.

So, based on the evidence I have seen, and as the checks suggested the lending to be affordable for Mr J, I do not find I have enough to say the account shouldn't have been opened.

Mr J's credit limit was increased to £1,500 in March 2015. NewDay had several months of data available to it about how Mr J had managed his account and also had information from the credit reference agencies. Mr J's account management showed that he had incurred late fees in four out of the six months prior to the credit limit increase and over limit fees in the other two months. His account balance didn't go below 95% utilisation in this period. I think this should have raised concerns that Mr J was potentially struggling to manage his existing level of credit and given this I do not think that NewDay should have considered providing further credit at this time as sustainable.

I have looked through Mr J's account management following the first credit limit increase and I can see that he continued to struggle to manage his account with further late and over limit fees being incurred before the following two credit limit increases. While Mr J did then improve his account management in the months leading up to the May 2016, December

2016 and June 2017 increases, his overall level of debt increased. So, without further evidence to show that Mr J was in a position where taking on further credit would be sustainably affordable for him – and noting the size of the credit limit increases – I do not find that it was reasonable for these credit limit increases to have been provided.

I've also considered whether NewDay acted unfairly or unreasonably in some other way given what Mr J has complained about, including whether its relationship with Mr J might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Mr J in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

### **Putting things right**

As I don't think NewDay should have increased Mr J's credit limit above £1,200, I don't think it's fair for it to charge any interest or charges on any balances which exceed that limit.

However, Mr J has had the benefit of all the money he's spent on the account, so I think he should pay this back. Therefore, NewDay should:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £1,200 after 25 March 2015.
- If the rework results in a credit balance, this should be refunded to Mr J 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 recorded after 25 March 2015 regarding this account from Mr J's credit file.
- Or, if after the rework the outstanding balance still exceeds £1,200, NewDay should arrange an affordable repayment plan with Mr J for the remaining amount. Once Mr J has cleared the outstanding balance, any adverse information recorded after 25 March 2015 in relation to the account should be removed from his credit file.

\*HM Revenue and Customs requires NewDay to deduct tax from any award of interest. NewDay must give Mr J a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

### **My final decision**

My final decision is that I uphold this complaint. NewDay Ltd should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 9 May 2025.

Jane Archer  
**Ombudsman**