

## The complaint

Miss F complains that NewDay Ltd have irresponsibly lent to her.

## What happened

Miss F was approved for an NewDay credit card (which I will refer to as A in this decision), in April 2019 with a credit limit of £300. I have detailed the credit limit changes below:

July 2019	£300 to £750
August 2020	£750 to £1,750
January 2021	£1,750 to £3,250

Miss F was approved for another NewDay credit card (which I will refer to as B in this decision), in June 2022 with a credit limit of £900. Miss F says that NewDay irresponsibly lent to her. Miss F made a complaint to NewDay.

NewDay did not uphold Miss F's complaint, as they said they made fair lending decisions. Miss F brought her complaint to our service. Our investigator partially upheld Miss F's complaint. She said she didn't think NewDay made a fair lending decision to increase the credit limit on A to £1,750. Our investigator said that the lending decision on B was fair. As NewDay did not let us know if they accepted or rejected our investigator's view of Miss F's complaint, the complaint was passed to me to make a decision on it.

## 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 F, 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 for A*

I've looked at what checks NewDay said they did when initially approving Miss F's application for A. I'll address the other lending decisions later on. NewDay said they looked at information provided by credit reference agencies (CRA's) and information that Miss F had provided before approving her application.

The information showed that Miss F declared a gross annual income of £7,000. The checks showed that Miss F had a debt to annual income ratio of 30.73% which would equate to around £2,151 of unsecured debt. The CRA reported to NewDay the monthly credit commitments that Miss F was paying for the unsecured debt.

The checks showed that Miss F had no accounts in arrears when the checks were completed, and there had been no accounts in arrears for the previous six months. They also show that Miss F had no defaults, or County Court Judgements (CCJ's) 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 the initial credit limit.

*July 2019 credit limit increase on A - £300 to £750*

I've looked at what checks NewDay said they did as part of this lending decision. The checks showed that Miss F's unsecured debt had fallen to £1,983. She incurred no overlimit or late fees since her account had been opened.

Miss F had made two transactions which attracted cash advance fees which could be a sign of financial difficulty, however, I am mindful that these are a legitimate use of the account, and in isolation I'm not persuaded that they would give NewDay a cause for concern.

Miss F had also made repayments which were higher than her minimum required payments, which I wouldn't expect her to regularly be able to do if she was suffering financial difficulty. None of Miss F's accounts were in arrears at the point of these checks. And Miss F had no accounts in arrears since A was approved.

So it wouldn't have been proportionate for NewDay to have completed further checks here, and I'm persuaded that they made a fair lending decision to increase the credit limit.

*August 2020 credit limit increase on A - £750 to £1,750*

I've looked at what checks NewDay said they did as part of this lending decision. The checks showed that Miss F's unsecured debt had fallen to £1,465. She had again incurred no overlimit or late fees since her account had been opened.

But despite Miss F occasionally paying more than her minimum required repayment, there are signs of financial difficulty since the last lending decision. I say this because Miss F's cash advances and money transfers were much more frequent since the last lending decision.

One of the CRA's reported that Miss F had been in arrears on an external account for two months in a row. So because this was in consecutive months, I can't fairly say that this was likely to be an oversight.

So I'm persuaded that NewDay should have completed further checks to ensure the lending was affordable and sustainable for Miss F. There's no set way of how NewDay should have made further proportionate checks. One of the things they could have done was to contact Miss F to ask her why she had been in arrears for consecutive months on an account, and the purpose of her cash advances/money transfers. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Miss F has provided her bank statements prior to this lending decision. Miss F's statements show that she has an arranged overdraft of £1,500 and she is constantly four figures overdrawn during the statements I've viewed. Miss F's income is substantially lower than what NewDay assessed for her, and her income is more in line with what she declared at the account opening stage.

Miss F does not appear to have the capacity to make repayments for an increased credit limit based on what her statements show. So if NewDay had completed further checks based on the reasons I've given, I'm not persuaded that they would have increased the credit limit. So I'm not persuaded that they made a fair lending decision to increase her credit limit here.

#### *January 2021 credit limit increase on A - £1,750 to £3,250*

If Miss F's credit limit increase to £1,750 did not happen, then it's probable that the further lending decision wouldn't have happened after this either. So I think there is an argument for saying that Miss F's complaint about the subsequent lending decision 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 August 2020, I'm not persuaded that NewDay would've added to the credit.

#### *Acceptance for B*

I'm not persuaded it is fair to automatically uphold Miss F's complaint for this lending decision as this was a separate application to A and her financial circumstances could have improved from the earlier lending decisions.

So I've looked at what checks NewDay said they did when initially approving Miss F's application for B. NewDay said they looked at information provided by a CRA and information that Miss F had provided before approving her application.

The information showed that Miss F declared a gross annual income of £15,000. So it would appear that she was earning more than double what she had declared for her application for A. The checks showed that Miss F had a debt to annual income ratio of 29.25% which was similar to her debt to annual income ratio when A was approved.

The CRA reported to NewDay the monthly credit commitments that Miss F was paying for the unsecured debt and NewDay were able to use this in the affordability calculation they completed for Miss F which appeared to show the repayments for the initial credit limit would be affordable and sustainable for Miss F.

The checks showed that Miss F had no accounts in arrears when the checks were completed, and there had been no accounts in arrears for the previous six months. They also show that Miss F had no defaults, or County Court Judgements (CCJ's) 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 the initial 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 F 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 takes the actions detailed below, which I think is reasonable in the circumstances. But if they do not own the debt anymore, then they

should also 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;

End the agreement and rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied to balances above £750 after 17 August 2020;

If the rework results in a credit balance, this should be refunded to Miss F 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 Miss F's credit file recorded after 17 August 2020;

Or, if after the rework the outstanding balance still exceeds £750, NewDay should arrange an affordable repayment plan with Miss F for the remaining amount. Once Miss F has cleared the balance, any adverse information recorded after 17 August 2020 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 F how much they've taken off. They should also give Miss F 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 F to accept or reject my decision before 8 May 2025.

Gregory Sloanes  
**Ombudsman**