

The complaint

Mrs P complains NewDay Ltd (NewDay) irresponsibly lent to her because it provided two credit card accounts without completing the appropriate checks to ensure the lending was affordable for her.

What happened

Mrs P took out two credit cards with NewDay.

Account one

The first account was taken out on 11 August 2020 with an initial limit of £300. The credit limit was increased to £1,300 on 5 February 2021 and to £2,550 on 4 June 2021.

Account two

The second account was taken out on 12 November 2021 with an initial account opening limit of £1,200. There were no credit limit increases.

Mrs P is represented in her complaint. But for ease of reading, I'll simply refer to Mrs P throughout this decision. Mrs P complained to NewDay about irresponsible lending on 23 July 2024.

NewDay responded to the complaint on 1 August 2024. It said it carried out a detailed affordability assessment which considered information from Mrs P's application and credit reference agencies (CRA), as well as how Mrs P had managed other accounts. It didn't uphold the complaint.

Mrs P remained unhappy and asked our service to investigate.

Our Investigator looked into things and explained why she felt NewDay should not have agreed to provide account one because it didn't seem Mrs P had sufficient disposable income at the time of the lending decision. She said it wouldn't be fair for NewDay to charge any interest or charges relating to this account. She felt NewDay's lending decision in respect of account two was reasonable based on the information it obtained.

NewDay didn't agree with the outcome our Investigator reached for account one. It didn't agree there was any evidence to suggest it shouldn't have lent to Mrs P. In summary, it said:

- It is satisfied £86.42 is a reasonable disposable income amount to sustainably repay a credit limit of £300.
- The estimated disposable income of £86.42 considers repayments to external credit commitments, at a value of £165 per month. It's affordability assessments seeks to ensure that a customer can afford repayments of 2.5x the monthly interest due on the full credit limit offered, to ensure that if a customer makes such payments each month, they wouldn't only be able to meet their contractual minimum payment (in line

with Financial Conduct Authority's requirements in its specialist sourcebook CONC) but also avoid persistent debt. This payment would approximately be £31.19.

- The estimated disposable income covers the expected reasonable repayment, and it found the £300 limit to be affordable. It understands Mrs P would need some capacity for emergency and unexpected expenditure, however this would likely not be a monthly event. Its credit facility would also provide financial flexibility, which could then be repaid in a reasonable timeframe if needed.
- Mrs P didn't use the account for three months before making a purchase in November 2020, this shows Mrs P had no reliance on credit.
- Mrs P made healthy payments exceeding the contractual minimum and incurred no fees for the first 39 months.
- When it increased the credit limit from £300 to £1,300 on 5 February 2021 its assessed estimated disposable income increased greatly to £1,414.47, reinforcing its initial decision to lend.

As NewDay didn't agree, 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.

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. I've used this approach to help me decide Mrs P's complaint.

When considering each credit card application, and whether to offer each credit limit increase, NewDay needed to conduct proportionate checks to satisfy itself the debt would be sustainably affordable for Mrs P. It's not about NewDay assessing the likelihood of being repaid, but it had to consider the impact of the repayments on her. NewDay has explained that in considering each application, it relied on the information Mrs P provided, the information it held about the conduct of her accounts with it, and information from external data sources – such as CRAs.

There is no set list of checks that it had to do, but it could take into account several different things such as the amount of credit and the overall circumstances of the borrower. I'm mindful NewDay provided two credit cards to Mrs P which is a type of running account credit. This means there isn't a fixed monthly repayment amount. However, NewDay's checks would need to be sufficient to ensure Mrs P could afford to make monthly repayments which would enable her to clear the total balance within a reasonable period.

Account one (opened August 2020)

Mrs P declared an annual gross income of £9,958 which was around £805 net monthly income. NewDay verified this using current account turnover (CATO) data it obtained from a CRA. The affordability assessment included expenditure of around £401 for cost of living and around £150 for housing costs.

NewDay also obtained information about how she had managed her credit. Mrs P had an Individual Voluntary Arrangement (IVA) within the last three years, and it had been some time since she had a defaulted account (60 months). All of her accounts were up to date and there were no missed payments or arrears. Her monthly payments towards credit commitments were £165 and her overall indebtedness was around 38% of her income.

Taking her net monthly income and the information about her expenditure, NewDay calculated an estimated disposable income figure of around £86. I understand this to be per month. It also explained its affordability calculations included a buffer.

In the circumstances of this complaint, I'm satisfied NewDay gathered enough information about Mrs P's situation to show the lending was likely to be unaffordable for her. I say this because its checks showed Mrs P would only be left with around £86 per month. I appreciate NewDay applied a buffer, however its calculations seem to show Mrs P wouldn't be left with much money in the event of unexpected expenses and she would be at considerable risk of not meeting her financial commitments.

NewDay have made the point that it is not every month Mrs P would likely experience unexpected spend. However, I'm not satisfied this means the agreement was affordable or sustainable. This is because its calculations showed Mrs P didn't have a lot remaining once meeting her existing commitments. Given the low amount left over per month, I think she was at risk of failing to meet her financial commitments should other expenses arise. Such expenses aren't uncommon and could include a variety of things which arise as part of everyday life.

Additionally, NewDay has said it has calculated the repayment figure for the card as 2.5x the interest which would be charged. I have noted what it has said here. NewDay always needed to take into account a sustainable repayment amount to ensure Mrs P could repay the total balance within a reasonable time. This is what it has relied on in its affordability calculations and I think it's reasonable for me to consider whether the disposable income figure it calculated was likely to be sufficient to ensure the credit was affordable.

I do appreciate this was a relatively modest limit and a reasonable repayment amount was likely to be relatively low. However, I'm not satisfied a sustainable repayment amount would leave Mrs P with sufficient disposable income to show she could afford this credit. Even if such a sustainable repayment amount might have been lower than the figure used by NewDay, I haven't seen any evidence which persuades me that it would be materially lower.

Therefore, NewDay should not have opened this account. NewDay has said it calculated a much higher disposable income when it went on to increase Mrs P's credit limit. I'm not satisfied in the circumstances, and based on the information NewDay had, that this meant the previous lending decision was a reasonable one. However, I'd also note it appears to have been based on a much higher income amount which I don't think was declared by Mrs P. It was significantly higher than what had previously been explained and which she declared in her later application.

NewDay also said Mrs P didn't use the account until some months after it was opened which showed she was not reliant on credit and there were no charges until after 39 months. However, Mrs P has complained about the affordability. I'd note charges and indicators of reliance on credit are not necessarily the only things which might demonstrate the affordability of an account. For example, a consumer may stretch themselves to make repayments on time whilst not being able to afford other essentials.

Weighing up all the evidence I have, I don't think it was fair for NewDay to provide Mrs P with this account. Given that I think the account shouldn't have been opened, I think it's reasonable to argue that the increases on the facility also shouldn't have been provided. If matters had happened as they should have done in August 2020, the account wouldn't have been opened. And, I'm not persuaded that Mrs P would have been able to add to the credit which ought not to have been provided in the first place. Therefore, it follows that I don't think the credit limit increases should have happened either. I'll explain how NewDay should put things right later in this decision.

Account two (opened November 2021)

NewDay carried out similar checks for account two as what has previously been set out. It used information from Mrs P's application, obtained further information from a CRA and assessed affordability.

Mrs P declared a gross annual income of £14,000 and her net monthly income was around £1,143. I note her income had increased following her application in August 2020. This income was verified with CATO information from a CRA. The information about Mrs P's existing credit showed her overall indebtedness was around 55% and the repayments towards this were calculated at around £309. All of her accounts were up to date, and there was no evidence of defaults or county court judgments (CCJs). So, it seems Mrs P was managing her credit at the time.

Based on declared income and expenditure information, NewDay calculated Mrs P had an estimated monthly disposable income of around £256. It included housing costs of around £161 and living costs of £415, as well as payments towards her credit commitments.

Taking everything into account, I'm satisfied NewDay obtained reasonable information to consider whether Mrs P was likely to be able to afford the credit being provided. It relied on information from Mrs P's application and information obtained from a CRA. I don't think it had any reason to carry out further checks or to question the information it had obtained. I'm also satisfied it made a fair lending decision at this point in time as its affordability assessment reasonably showed Mrs P would be able to sustainably afford the credit. There wasn't anything from the information which indicated she might be reliant on credit, or the card might worsen her financial position.

Did NewDay act unfairly or unreasonably in some other way?

From the evidence I've seen, I'm unable to conclude NewDay acted unfairly or unreasonably in some other way. Additionally, I've considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974 in relation to this matter. However, I'm satisfied the redress I have directed below results in fair compensation for Mrs P 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

I don't think NewDay ought to have provided Mrs P with account one (opened August 2020). Therefore, it shouldn't be able to charge any interest or charges under the agreement. However, Mrs P has used the credit and should have to pay back any amounts borrowed.

To put things right, NewDay Ltd should:

- Rework account one 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 Mrs P 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 Mrs P's credit file.
- Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Mrs P for the remaining balance. Once Mrs P has cleared the balance, any adverse information in relation to the account should be

removed from her credit file.

*If NewDay considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs P how much it's taken off. It should also give Mrs P a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons outlined above, I'm upholding part of this complaint and NewDay Ltd should put things right in the way outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 6 August 2025.

Laura Dean
Ombudsman