

The complaint

Miss S complains that NewDay Ltd irresponsibly lent to her.

What happened

Miss S was approved for an NewDay credit card (which I will refer to as A in this decision), in December 2018 with a credit limit of £450. I have detailed the credit limit changes below:

January 2020	£450 to £1,700
August 2021	£1,700 to £3,700
November 2021	£3,700 to £5,200

Miss S was approved for another NewDay credit card (which I will refer to as B in this decision), in January 2021 with a credit limit of £900. The credit limit was increased on B to £1,900 in June 2021. The credit limit was increased to £3,400 in October 2021.

Miss S was approved for another NewDay credit card (which I will refer to as C in this decision), in November 2022 with a credit limit of £1,200. Miss S says that NewDay irresponsibly lent to her. Miss S made a complaint to NewDay, who did not uphold her complaint. Miss S brought her complaint to our service.

Our investigator upheld Miss S' complaint. He said NewDay shouldn't have approved any of the credit cards based on Miss S not having enough disposable income to meet the repayments. As NewDay did not respond to our investigator's view of the complaint, Miss S' 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 S, 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 S' application for A. I'll address the other lending decisions later on. Miss S declared a gross annual income of £16,518.

The data also showed that Miss S had no County Court Judgements (CCJ's), but she had defaulted on at least one account previously, with the last default being 67 months prior to the account opening checks.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing. So I've looked at what NewDay's other checks showed to see if they made a fair lending decision here.

The checks showed that Miss S was currently in arrears at the time of the checks. She was also indebted as her debt to gross annual income was showing as being 126.54%. NewDay completed an affordability assessment. They calculated that Miss S would have £1,185.27 net monthly income. They used information from a CRA and modelling to calculate Miss S would have an estimated disposable income of £14.74 a month.

I'm not persuaded that £14.74 a month disposable income would be sufficient for NewDay to make a fair lending decision here. I say this because even a slight rise in Miss S' outgoings would result in her having a negative disposable income, not to mention her having no disposable income for emergencies. So I'm not persuaded that NewDay made a fair lending decision here.

Future credit limit increases on A

If Miss S' application for A was not accepted, then it's probable that the further lending decisions wouldn't have happened after this either. So I think there is an argument for saying that Miss 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 December 2018, I'm not persuaded that Aqua would've added to the credit.

Acceptance for B

I'm mindful that Miss S' circumstances could have improved since A was accepted, therefore I don't think it would be fair to say this lending decision should automatically be upheld. So I've looked at what checks NewDay said they did when initially approving Miss S' application for B. Miss S declared a gross annual income of £16,650 which was similar to the income she declared for A.

The data also showed that Miss S had no County Court Judgements (CCJ's), and she had no defaults being registered. The checks showed that Miss S was not in arrears at the time of the check, and she hadn't been in arrears on any of her accounts in the six months prior to the checks.

Miss S was showing as having a debt to gross annual income of 93.54%. NewDay partially completed an affordability assessment. They used information from a CRA to assess Miss S' monthly credit commitments (£879). But they did not assess any other outgoings for Miss S.

Based on the net monthly income NewDay calculated on A, which was £1,185.27, and Miss S' income that she declared for B being similar to A, then this would leave her a little over £300 for housing costs and living costs.

When A was approved, NewDay calculated Miss S' monthly living costs to be £416.82, and her housing costs to be £154.16. It's probable that Miss S' expenditure would have increased for these outgoings, especially due to inflation.

So I'm not persuaded that Miss S would have enough disposable income to be able to afford repayments for a £900 credit limit on B and meet her other monthly expenditure, not to mention a slight rise in Miss S' outgoings would leave her further indebted and her having no disposable income for emergencies. So I'm not persuaded that NewDay made a fair lending decision here.

Future credit limit increases on B

If Miss S' application for B was not accepted, then it's probable that the further lending decisions wouldn't have happened after this either. So I think there is an argument for saying that Miss S' complaint about the subsequent lending decisions on B 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 2021, I'm not persuaded that Aqua would've added to the credit.

Acceptance for C

I'm mindful that Miss S' circumstances could have improved since B was accepted, therefore I don't think it would be fair to say this lending decision should automatically be upheld. So I've looked at what checks NewDay said they did when initially approving Miss S' application for C. Miss S declared a gross annual income of £16,650 which was similar to the income she declared for A, and it was the same as what she declared for B.

The data also showed that Miss S had no County Court Judgements (CCJ's), and she had no defaults being registered. The checks showed that Miss S was not in arrears at the time of the check, but she had been one month in arrears on an account within six months prior to the checks.

Miss S was showing as having a debt to gross annual income of 88.21%. NewDay partially completed an affordability assessment. They used information from a CRA to assess Miss S' monthly credit commitments (£1,000). But they did not assess any other outgoings for Miss S.

Based on the net monthly income NewDay calculated on A, which was £1,185.27, and Miss S' income that she declared for C being similar to A, then this would leave her a little over £185 for housing costs and living costs.

As I've previously mentioned, when A was approved, NewDay calculated Miss S' monthly living costs to be £416.82, and her housing costs to be £154.16. It's probable that Miss S' expenditure would have increased for these outgoings, especially due to inflation.

So I'm not persuaded that Miss S would have enough disposable income to be able to afford repayments for a £1,200 credit limit on C and meet her other monthly expenditure, not to mention a slight rise in Miss S' outgoings would leave her further indebted and her having no disposable income for emergencies. So I'm not persuaded that NewDay made a fair lending decision here.

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 S 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. In addition to this, if NewDay do not own the debt anymore for any of the accounts, 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. NewDay Ltd should take the following actions;

Card A:

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 S 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 S for the remaining amount. Once Miss S has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

Card B:

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 S 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 S for the remaining amount. Once Miss S has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

Card C:

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 S 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 S for the remaining amount. Once Miss S 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 S how much they've taken off. They should also give Miss S 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 S to accept or reject my decision before 30 May 2025.

Gregory Sloanes
Ombudsman