

The complaint

Mr B complains that NewDay Ltd irresponsibly lent to him.

What happened

Mr B was approved for an NewDay credit card (which I will refer to as A in this decision), in March 2021 with a credit limit of £450. The credit limit was increased to £1,450 in July 2022.

Mr B was approved for another NewDay credit card (which I will refer to as B in this decision), in May 2023 with a credit limit of £2,000. Mr B was approved for a third branded NewDay credit card (which I will refer to as C in this decision) also in May 2023 with a credit limit of £1,000. Mr B says that NewDay irresponsibly lent to him. Mr B made a complaint to NewDay, who did not uphold his complaint. Mr B brought his complaint to our service.

Our investigator partially upheld Mr B's complaint. She said that NewDay shouldn't have opened B and C as Mr B had made international transfers on A since it had been open. Our investigator said that Mr B incurred overlimit fees on A between August-November 2022 and he didn't use the card again until after B and C were open, so NewDay wouldn't have seen Mr B could use his card efficiently prior to B and C being opened.

NewDay asked for an ombudsman to review the complaint. They said that the arrears on A was six months prior to B and C being opened and Mr B was not in arrears/exceeding his credit limit when B and C were opened. NewDay said Mr B had been meeting or exceeding his requested payments from them, and his debt to income was low.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

"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 Mr B, NewDay needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. 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 in date order 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 Mr B's application for A. I'll address the credit limit increases later on, and the lending decisions for B and C. NewDay looked at information provided by Mr B and information they received from a Credit Reference Agency (CRA).

Mr B declared a gross annual income of £130,000. The data from the CRA showed no

defaults or County Court Judgements (CCJ's) on his credit file. He was not in arrears on any of his accounts at the time of the checks, and he hadn't been in arrears for the six months prior to the checks. He had no arrangement plans in place, and no active payday loans.

NewDay's data showed that Mr B had a debt to annual income ratio of 25.61%, which would have equated to him having around £33,293 of active unsecured debt. NewDay also completed an affordability assessment. They used Mr B's declared gross annual income, and they calculated the net monthly income. They used information from a CRA, and modelling to calculate Mr B's outgoings.

The affordability assessment showed that Mr B would comfortably be able to afford sustainable repayments for a £450 credit limit. So based on what all of NewDay's checks showed, I'm persuaded that their checks were proportionate, and they made a fair lending decision to approve A with a £450 credit limit.

July 2022 credit limit increase on A - £450 to £1,450

The checks NewDay completed for this lending decision showed that one CRA was reporting active unsecured debt of £32,647 which was slightly lower than at the account opening checks.

Mr B had no active accounts in arrears at the time of the checks, and none of these had been in arrears since A had been opened. NewDay would have also been able to see how Mr B managed A since it had been opened.

Mr B had made several transactions which incurred a cash advance fee. While this could be a sign of financial difficulty, I'm also mindful that making transactions which attract a cash advance fee are a legitimate use of the account. The transactions weren't typically cash machine withdrawals could indicate cash was needed urgently, but rather to a company who primarily handle international transfers.

Mr B incurred no late fees since his account had been opened, but he had incurred two overlimit fees. So this could be a sign of financial difficulty. But this also could have been due to oversights from Mr B. I can see that Mr B had at least one refund of an overlimit fee, which would typically happen if a consumer would contact NewDay to explain exceeding their credit limit was an oversight.

The exceeding of the credit limit does appear to be an oversight here. I say this because Mr B made repayments which were higher than his minimum requested repayment in the month he incurred these fees, so this points to an oversight as opposed to him having financial difficulty at the time. It would not be proportionate for Mr B to be able to make higher repayments to his account if he was struggling financially at the time, or for him to reduce his debt overall since A had been approved to the point of these lending checks.

The new £1,450 credit limit would have equated to around 1.1% of his originally declared gross annual income.

So I'm persuaded that NewDay's checks were proportionate for this lending decision, and they made a fair decision to increase Mr B's credit limit here.

Application for B and the application for C

As both B and C was applied for on the same day, I've included my findings in the same section to avoid repetition. While it is unusual for a borrower to apply and be accepted for two different accounts on the same day, I've looked at this collectively in terms of the credit

limits between B and C.

NewDay again looked at information provided by Mr B and information they received from a CRA. Mr B declared a gross annual income of £165,000 for B and £150,000 for C. While I note these are two different figures, Mr B applied for B through a CRA, and therefore the information he had with them may not have been the same as when he applied for C directly with NewDay.

The data from the CRA again showed no defaults or County Court Judgements (CCJ's) on his credit file. He was not in arrears on any of his accounts at the time of the checks, and he hadn't been in arrears for the six months prior to the checks. He had no arrangement plans in place, and no payday loans being reported by the CRA.

NewDay's data showed that Mr B had a debt to annual income ratio of 18.22% (on B), which would have equated to him having around £30,063 of active unsecured debt. This was lower than at the last lending decision.

NewDay also completed an affordability assessment. They used Mr B's declared gross annual income for B, but they were able to verify Mr B's net monthly income as £8,269.70 (which would equate to £99,236.40 a year net income). So as they were able to verify his net monthly income, I'm not persuaded further checks were needed regarding the discrepancy of the declared annual gross income on B and C.

NewDay again used information from a CRA, and modelling to calculate Mr B's outgoings. The affordability assessment showed that Mr B would comfortably be able to afford sustainable repayments for a £2,000 credit limit on B and a £1,000 credit limit for C.

In addition to this, NewDay would have also been able to see how Mr B managed A since the credit limit increase to £1,450, as this had only been increased around 10 months prior to B/C being approved.

Shortly after the credit limit increase on A to £1,450, Mr B incurred four overlimit fees. So this could be a sign of financial difficulty. But again they could be oversights. And I'm persuaded that these were oversights again.

I say this because Mr B over these four months made repayments totalling between £77.42 and £447.48. In three of these months he paid more than double what his required minimum payment was. He had not missed a payment since A was opened.

The last time Mr B incurred an overlimit fee on A prior to B being opened was in November 2022. This was six months prior to B and C being approved. So it was not recent. NewDay would be able to see that Mr B had actually managed to repay his full balance on A after November 2022 (with a large repayment of £1,638.33 showing on the data NewDay provided our service for the January 2023 period, and the remaining £63.59 he repaid in the February 2023 period).

Mr B did not use A between the time the full balance was repaid, and B/C being opened. So it would appear to NewDay that Mr B wasn't having difficulty making repayments on A could afford to sustainably make repayments to A since he'd paid off the full balance.

The total credit limits for B and C was £3,000. This would have been around 3% of his verified net annual income (using the verified net monthly income and multiplying this by 12 to get an annual net income).

So based on what all of NewDay's checks showed, I'm persuaded that their checks for the

acceptance of B and C were proportionate, and they made a fair lending decision to approve B with a £2,000 credit limit, and C with a £1,000 credit limit.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that NewDay lent irresponsibly to Mr B or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here."

I invited both parties to let me have any further submissions before I reached a final decision. NewDay did not respond to the provisional decision. Mr B did not accept the provisional decision. He made a number of points. In summary, Mr B said I concluded that the overlimit fees were oversights, however, he often used these funds for cash advances, cryptocurrency and gambling. He said there were failed direct deposits on these accounts which should be another sign of financial difficulty, as this implies there was insufficient funds in the bank accounts that should have funded the direct debits.

Mr B said that the cash advance fees were clear he was using a third-party company which enable users to send cash to bank accounts (including his own bank account which he did with every single one of his transfers). He said this is no different to withdrawing cash through a cash machine given the end result is the same. Mr B felt that as I had said it was unusual for a consumer to apply for two credit cards in one day then NewDay should have looked closer at his circumstances. Mr B said although there may not have been any active payday loans at the time of the checks, his credit file would have shown a history of relying on high cost and payday loans. He said he would have avoided CCJ's, and payment plans by borrowing from friends and family.

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.

Firstly, I'm aware that I've only summarised Mr B's complaint points. And I'm not going to respond to every single point made by him. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

I've considered what Mr B has said regarding him using the NewDay funds for cash advances including cryptocurrency and gambling. Between A being opened and the credit limit increase there was only one day (20 March 2021) where I could identify debits to a gambling firm. Up until the credit limit increase, there were no other identifiable transactions to gambling companies. So I can't fairly say that NewDay should have had a concern that Mr B may use the funds to gamble as by the time his credit limit had increased on A, it was over 12 months since Mr B used A to gamble on.

The payments to the third party company which enabled him to transfer to another one of his accounts were not classed as cash transactions. They did not attract a cash transaction fee, and they were charged at the lower purchase rate of interest, not the higher cash interest rate. So I'm not persuaded that this was the same as taking cash from a cash machine on his credit card.

It's also possible that if Mr B was using some of this money to invest into cryptocurrency, that he may have other savings/investments to be able to make repayments to the credit card. But as NewDay have treated these transactions as purchases instead of cash, I'm not

persuaded it would have been proportionate for them to make further checks to see what Mr B was using the credit for.

The credit card statements show that when interest was charged on 15 June 2021, this caused Mr B to incur an overlimit fee on the same day, which is why it's likely this was an oversight from Mr B, as it wasn't a specific transaction he made which caused him to exceed his credit limit. Mr B not only made a payment to bring his account within its credit limit the following week, but he made an additional repayment the week after that. This was over 12 months prior to his credit limit being increased.

When Mr B incurred the overlimit fee on 15 August 2021, he made a payment which was far in excess of his minimum requested repayment as he repaid £397.97 on 19 August 2021. This is why it would be proportionate for NewDay to believe these were oversights.

Although Mr B incurred an overlimit fee on 9 February 2022, an adjustment was made the same day to remove this. He was given an overlimit refund on 13 February 2022, and I can see that Mr B made a repayment of £195 which credited A on 10 February 2022.

There was one occasion I identified where it showed an unpaid direct debit between A being opened and the credit limit increase for A (which was 1 April 2022). But Mr B made a repayment which was substantially higher than his requested minimum repayment on 5 April 2022 (for £282.81). As I mentioned in the provisional decision Mr B had also managed to lower the amount of active unsecured debt he had since A was opened and his credit limit being increased.

I also mentioned in the provisional decision that *"The last time Mr B incurred an overlimit fee on A prior to B being opened was in November 2022. This was six months prior to B and C being approved. So it was not recent. NewDay would be able to see that Mr B had actually managed to repay his full balance on A after November 2022 (with a large repayment of £1,638.33 showing on the data NewDay provided our service for the January 2023 period, and the remaining £63.59 he repaid in the February 2023 period)."*

Mr B did not use A between the time the full balance was repaid, and B/C being opened. So it would appear to NewDay that Mr B wasn't having difficulty making repayments on A could afford to sustainably make repayments to A since he'd paid off the full balance."

I've considered what Mr B has said about how NewDay should have looked closer at his circumstances as he applied for B and C on the same day. But I'm satisfied that NewDay's checks were proportionate as not only did he repay his balance on A prior to B and C being opened, NewDay also received information from a CRA that Mr B's unsecured debt had fallen since the last lending decision, but they completed an affordability exercise.

As I said in the provisional decision NewDay *"used Mr B's declared gross annual income for B, but they were able to verify Mr B's net monthly income as £8,269.70 (which would equate to £99,236.40 a year net income). So as they were able to verify his net monthly income, I'm not persuaded further checks were needed regarding the discrepancy of the declared annual gross income on B and C."*

NewDay again used information from a CRA, and modelling to calculate Mr B's outgoings. The affordability assessment showed that Mr B would comfortably be able to afford sustainable repayments for a £2,000 credit limit on B and a £1,000 credit limit for C". So I'm not persuaded further checks were needed here.

NewDay are not required to obtain Mr B's full credit file, as this would not be proportionate to look at account activity for six years prior to the lending decisions. So they may not have

been aware of Mr B's payday loans history prior to the lending checks. But if the checks showed Mr B had any active payday loans when they completed their lending checks, then I would expect NewDay to make further checks. Here, the data from the CRA showed Mr B had no active payday loans at the point of the checks. So they would be aware he wasn't paying any active payday loan repayments at the time of the checks.

I've considered what Mr B has said about how he could borrow from friends and family to avoid a CCJ, and repayment plans. But the CRA NewDay used reported that Mr B was not on any repayment plans or CCJ's at the time of the checks for all three accounts. The checks NewDay made for all of the lending decisions appear to show that the repayments would be affordable and sustainable for Mr B.

In summary, Mr B's response hasn't changed my view, and my final decision and reasoning remains the same as in my provisional decision. If Mr B is disappointed, I hope he understands my reasons.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 July 2025.

Gregory Sloanes
Ombudsman