

## **The complaint**

Mr C complains that NewDay Ltd trading as Marbles and Fluid (NewDay) acted irresponsibly when agreeing to open two credit card accounts, and to subsequent credit limit increases for one of the credit cards.

## **What happened**

In July 2020 Mr C applied for a credit card account with NewDay. His application was successful and NewDay applied a £900 credit limit. NewDay increased Mr C's credit limit several times, in November 2020 to £1,650, March 2021 to £1,800, June 2021 to £3,050, January 2022 to £3,200, April 2022 to £4,700 and July 2023 to £6,200.

Mr C applied for another credit card with NewDay in May 2022. His application was successful and NewDay applied a credit limit of £1,500. No further credit limit increase was applied.

Mr C said he struggled to sustain his repayments. And he complained to NewDay saying they hadn't properly checked he could afford either credit card account.

NewDay said their checks had been reasonable and proportionate for both credit card accounts. But accepted that they hadn't been fair to Mr C when they increased his credit limit in July 2023 to £6,200, and said how they'd put this right.

Mr C wasn't happy with NewDay's response and referred his complaint to us.

Our investigator said NewDay should have done more to check Mr C's financial situation. But on the evidence provided by Mr C he couldn't say NewDay had acted unfairly.

Mr C didn't agree and asked for an ombudsman 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.

I appreciate Mr C will be disappointed by my decision but having done so I'm not upholding his complaint. I'll explain my reasons for this.

In reaching my decision I'm only considering the opening of the credit card accounts and the subsequent credit limit increases to £4,700 for one of Mr C's credit cards. NewDay has already accepted they shouldn't have increased Mr C's credit limit in July 2023 and have looked to put this right in accordance with our approach. So, I won't comment further on this credit limit increase.

I've considered the relevant rules, guidance and good industry practice when someone complains about irresponsible and/or unaffordable lending. There are two overarching questions I need to consider deciding what's fair and reasonable in all the circumstances of the complaint. These are:

1. Did NewDay complete reasonable and proportionate checks to satisfy themselves that Mr C would be able to repay the credit in a sustainable way?

a. if so, did NewDay make a fair lending decision?

b. if not, would reasonable and proportionate checks have shown that Mr C could sustainably repay the borrowing?

2. Did NewDay act unfairly or unreasonably in some other way?

So, before agreeing to approve or increase the credit available to Mr C 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.

What's important to note is that NewDay provided Mr C with a revolving credit facility rather than a loan. Unlike a loan there isn't a fixed amount to be repaid each week/month. The required payment is dependent on the transactions made and the outstanding balance each month. For this type of credit NewDay is required to understand whether the credit limit they've applied can be repaid within a reasonable period, rather than in one go. So, for the first credit limit of £900, I'd expect the required payment to be approximately £45 a month to clear the full amount owed within a reasonable period.

I've looked at what checks NewDay said they did when initially approving Mr C's application. NewDay said they looked at information provided by credit reference agencies (CRA) and information that Mr C had provided before approving his application. These checks showed Mr C hadn't defaulted on any previous credit commitments, neither had he entered any payment arrangements. He hadn't missed any repayments and didn't have any high-cost short term lending commitments. Mr C had a declared income of £16,000 a year which they equated to £1,157 a month. Mr C's debt to income ratio was low at 7.06%, his CRA checks showed he'd monthly credit commitments of £54. NewDay also used data to determine Mr C's non-discretionary spending. Taking all the data, they found Mr C had more than £600 a month in disposable income. And based on this information they deemed the lending was affordable.

Given the type and amount NewDay was lending to Mr C I think any further checks would have been disproportionate. The checks showed Mr C had a regular income, and his level of debt was low with no signs of financial vulnerability. So, I'm satisfied their checks were proportionate and these showed Mr C should have been able to sustain his repayments. So, their decision to lend to him was fair.

#### *Credit Limit increases*

NewDay increased Mr C's credit limit in stages over the next two years in increments of £750, £150, £1,250, £150 and £1,500. NewDay used a monthly assessment tool which considered how Mr C had previously managed his account and a CRA check. This showed Mr C's existing account was being well managed. But I haven't seen specifically that they verified Mr C's income, albeit his credit history showed he was meeting his credit commitments as there weren't any missed payments. But given Mr C had previously declared a relatively low income, I would expect NewDay to have obtained further information to understand the level and source of Mr C's income at the time of the lending decision.

For me to be able to compile information to be able to carry out an affordability check I need evidence of Mr C's income and outgoings. I can see our investigator has asked for this information from Mr C but the information he's provided is limited.

Where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened or not considering the available evidence and the wider circumstances.

The relevant guidance says a lender can consider income other than from salary or wages. And a business providing lending or credit will have its own lending criteria. But is under regulatory obligations to ensure that lending is affordable. I can see from the evidence Mr C has provided that the source of some of his income is from benefit payments. Based on the figures Mr C has provided; from January 2022 he'd a monthly benefit income of £842.70 and from April 2022 £854.70.

Mr C has provided us with some bank statements, but these don't cover the entirety of the period of lending Mr C is complaining about. He's provided bank statements covering the end of December 2021 to February 2022, these show Mr C paid into the account on average around £1,347. I can see one of Mr C's benefit payments into the account along with transfers in from his student account, an account Mr C hasn't provided any further details about. Mr C has also provided bank statements from December 2022 until March 2023, these show an average paid into the account of around £1,533, again I can see one of Mr C's benefits and transfers from his student bank account. So, on balance a Current Account Turnover data (CATO) check I think would have shown Mr C had a regular income being paid into his account. But Mr C hasn't provided sufficient evidence to show the exact make up of his income from all his bank accounts for each of the lending decisions.

I can see from NewDay's CRA checks that Mr C's monthly credit commitments had increased at the time of the credit limit increases for October 2020, March 2021, May 2021 January 2022 but only by the respective credit limit increases made by NewDay themselves, so there isn't any evidence of Mr C having sought further credit from any other source. I can see for the fifth credit limit increase in May 2022, Mr C's credit commitments had increased by an additional £3,000 over and above his NewDay increases which I think was a sign that Mr C was beginning to become reliant on credit.

NewDay also had evidence as to how Mr C was managing his account with them. And I can see he consistently paid more than the minimum amount that was required. I haven't seen any missed payments or over the limit usage and fees or any signs of financial vulnerability. In November 2022 Mr C paid more than his outstanding balance which left his account with a negative balance of £994. So, I've no reason to doubt Mr C was able to afford the repayments for his credit card. On balance, taking all the above into account with the limited information I have about Mr C's income and outgoings I can't say NewDay acted unfairly by lending to him.

At the time of the last increase Mr C's total credit commitments had increased further showing a continued reliance on credit. I'm pleased NewDay has accepted that they shouldn't have lent further to Mr C at this point. And they have put this right.

*Credit card issued May 2022 - £1,500*

Mr C applied for another credit card with NewDay. And his application was successful with NewDay applying a credit limit of £1,500. NewDay said they used application and CRA data to check Mr C's credit worthiness. This showed he'd an annual income of £16,000, and monthly credit commitments of £309. Mr C's debt to income ratio was 48.70%. While NewDay assessed Mr C had sufficient disposable income to sustain the repayments. I think

they should have done more to check Mr C's actual income and non-discretionary spending given his level of indebtedness.

To be able to determine whether Mr C could afford the lending being provided by NewDay I would generally consider the three months leading up to the new lending to gather a good understanding of Mr C's income and expenditure. But again, I've limited information to establish a true picture of Mr C's financial situation. The bank statements Mr C has given to us relative to this lending cover from the end of January 2022 to the end of February 2022. This showed Mr C had paid into his account £1,467.93, which included transfers from another of his accounts.

I can see credit commitments being paid out from the statements Mr C has provided but I can't see any non-discretionary spending for example for housing, transport, or utilities. So, based on the limited evidence I can't determine Mr C's financial position at the time he applied for this credit card. From NewDay's checks they found Mr C had a regular income, was up to date with his credit commitments and was managing existing accounts he'd with them well. So, based on the evidence I have I can't say NewDay acted unfairly in lending to Mr C.

I know Mr C will be disappointed by my decision, but I can't ask NewDay do something different if I can't find they did anything wrong.

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

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 28 July 2025.

Anne Scarr  
**Ombudsman**