

## **The complaint**

Mrs B complains that NewDay Ltd trading as AO Finance (NewDay) acted irresponsibly in agreeing to credit she said was unaffordable for her.

## **What happened**

In December 2021 Mrs B applied for a revolving credit facility with NewDay. Her application was successful with NewDay applying a credit limit of £900. Mrs B said she struggled to maintain her repayments. She complained to NewDay saying they hadn't sufficiently checked she could afford to sustain the repayments before they agreed to lend to her.

NewDay didn't agree they said they'd used application and credit reference agency (CRA) data to assess Mrs B's affordability. Based on these checks Mrs B should have had sufficient disposable income to sustain the repayments.

Mrs B wasn't happy with NewDay's response and referred her complaint to us.

Our investigator said NewDay's checks didn't go far enough and that they should have done more. He asked Mrs B to provide evidence to show her financial situation around the time of the lending but these weren't provided. So, based on the available evidence he couldn't say NewDay had acted unfairly in agreeing to the lending.

Mrs B 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 this will disappoint Mrs B but having done so I'm not upholding her complaint for the same reasoning as that given by our investigator. I'll explain why.

I've considered the relevant rules and guidance on responsible lending set by the regulator, laid out in the consumer credit handbook (CONC). In summary, these say that before NewDay offered the credit they needed to complete reasonable and proportionate checks to be satisfied Mrs B would be able to repay the debt in a sustainable way.

Checks also needed to be proportionate to the specific circumstances of the lending. There isn't a specific list of what constitutes proportionate affordability checks – rather it will depend on several factors, but not limited to, the particular circumstances of the consumer, and the amount/type/cost of credit they were seeking.

NewDay has provided evidence of the information given by Mrs B in her application and that they gathered from their credit checks. Mrs B declared she'd an annual income of £18,500 which would be around £1,406 a month. Her credit commitments showed as being £505 a month. Mrs B did have some adverse information recorded, that being she'd defaults registered on her credit history but these had been 35 months prior to the lending. And in the preceding six months it showed she was a month behind with her credit commitments.

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 – it doesn't automatically mean that a lender won't offer borrowing. The defaults showing on Mrs B's credit file had happened 35 months prior to the lending, so they'd be considered as historic. But added to this is the recent missed payment, which could be a sign Mrs B was becoming financially vulnerable again.

Mrs B had an existing account with NewDay that had been opened the month before. While this would be too soon to check how Mrs B was managing that account with NewDay, it did show at that time Mrs B had a disposable income of around £140. I can see her income had increased for the lending I'm considering. But based on the recent figures used by NewDay for cost of living (£423.33) and housing costs (£267.56). I think Ms B's disposable income before factoring in the new lending would now be around £210.

What's important to note is that NewDay was providing Mrs B with a revolving credit facility rather than a loan. And this means that they were required to understand whether a credit limit of £900 could be repaid within a reasonable period of time, rather than in one go. A credit limit of £900 required payments of approximately £45 a month in order to clear the full amount owed within a reasonable period of time. So after factoring in £45, using NewDay's figures the lending would appear to be affordable.

While NewDay's checks seemed to show Mrs B had sufficient disposable income to meet her commitments under the agreement, any lending should be borrower focussed. And as Mrs B was again showing signs of financial vulnerability I don't think the checks NewDay did were sufficient in these specific circumstances. I think they needed to check further.

By saying NewDay's checks weren't sufficient doesn't automatically mean their lending decision was unfair. What I need to determine is what further checks would have shown. Our investigator asked Mrs B to provide her bank statements for the three months prior to the lending. While I wouldn't necessarily expect a business to ask for these specific documents I think they're a good indicator of Mrs B's financial situation at around the time NewDay agreed to lend to her.

Mrs B hasn't provided these documents or any other evidence for me to consider. I take on board comments about how Mrs B managed her other account with NewDay. But as outlined above at the time of the lending Mrs B had only just opened that account so the information I think she's referred to couldn't have been seen at that time. So based on the available evidence I can't say NewDay acted unfairly in agreeing to lend to Mrs B. They'd taken reasonable steps to assess her income and outgoings. And based on these they found she should have had sufficient disposable income to be able to sustain the repayments.

I've also considered whether NewDay acted unfairly or unreasonably in some other way given what Mrs B has complained about, including whether their relationship with her might have been viewed as unfair by a court under Section 140A Consumer Credit Act 1974. But, for the reasons I've already given, I can't say NewDay lent irresponsibly to Mrs B or otherwise treated her unfairly. I haven't seen anything to suggest that s.140A or anything else, 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 Mrs B to accept or reject my decision before 14 August 2025.

Anne Scarr  
**Ombudsman**