

The complaint

Mr J complains that NewDay irresponsibly provided him with two credit cards and increased the limit on one of the cards.

What happened

The background is well-known to the parties, so I've set out a summary of what I think are the key events.

NewDay provided Mr J with a credit card in February 2023 (card 1) with a limit of £2,000. I understand the limit on this card wasn't increased. NewDay provided Mr J with another credit card in April 2024 (card 2) with a limit of £2,000 and the limit on card 2 was increased to £3,200 in August 2024.

Mr J complained to NewDay. In summary, he said NewDay shouldn't have allowed him to open accounts with such large credit limits. And had it carried out proportionate checks, it wouldn't have lent to him. He said there were signs of over-indebtedness, he had a history of adverse credit, he'd applied for multiple credit in a short space of time, his bank statements would have shown he was a vulnerable, addictive gambler. Mr J feels lenders should check all accounts held by a customer when they apply for credit.

It appears NewDay didn't send a final response on the matter, however when providing information to our service, NewDay upheld Mr J's complaint about the limit increase on card 2 and made an offer to put things right for him.

Mr J didn't accept NewDay's offer because he said he the initial lending on both cards was irresponsible too.

Our Investigator reviewed Mr J's complaint but felt the offer made by NewDay to put things right in relation to the credit limit increase, was fair. In summary, they said the checks carried out for the initial lending decisions on both cards were proportionate and, based on what those checks revealed, the lending fair.

NewDay didn't respond but Mr J didn't agree. In summary, he reiterated some of his earlier points and also said NewDay ought to have requested proof of income and reviewed his bank statements. Mr J said he was self-employed, and his income varied. He said his income shouldn't have been taken at face-value. Mr J felt some of his points hadn't been addressed, including that he'd only been making the minimum repayments on his existing credit and that lenders must monitor for persistent debt and intervene. Mr J says despite this, he was approved for further credit. He also says the Investigator didn't comment on his point that there was a pattern of revolving dependency because he'd closed one NewDay card and opened another within five months. Mr J shared some other decisions issued by our service which had been upheld, and he said the Investigator didn't refer to this nor explained why they'd reached a different conclusion.

Because the parties couldn't agree, the complaint was passed to me to decide on the matter.

I contacted the parties, informally at first, to share my thoughts on this complaint. I said:

“I’m an Ombudsman here. As I understand it, no agreement has been reached on how to resolve the matter. So, it’s been passed to me to decide.

I’ve spent some time reviewing the submissions, and I wanted to get in touch with both parties – informally at first – to set out my current thoughts and see if a resolution can be agreed without the need for a formal final decision. To be clear, what I’ve set out here isn’t a formal decision – but it is my view of matters as an Ombudsman and, in the absence of any further evidence, any formal decision that I did construct would likely follow the same findings. I’ve set my current position out below, which I’ll also send to NewDay, and I’d welcome your comments as soon as possible – by no later than 8 December 2025.

Our Investigator thought the offer NewDay made to uphold the credit limit increase on the second credit card it provided to Mr J was fair. But that the rest of Mr J’s complaint shouldn’t be upheld - and I’m minded to agree. However, I’m mindful Mr J has raised some points which I don’t think have been fully addressed. So, I wanted to give him the opportunity to comment before I finalise my decision. I also want to thank Mr J for providing further bank statements and the information requested. I’ve taken the time to carefully review this, and I’ll explain my thoughts.

As set out by our Investigator, it’s certainly arguable that the checks NewDay carried out before the provision of the first credit card were proportionate, considering Mr J’s relatively high income and that it appeared he’d been managing recent external credit well. However, Mr J feels his debt-to-income ratio at around 80% ought to have prompted more checks – and I can understand this, given there was the potential for him to be overindebted.

If I were to say NewDay ought to have carried out more checks, due to the risk of Mr J being overindebted, I don’t think this would have gone beyond checking his actual committed living expenses. I say this because NewDay verified the income Mr J declared using CATO, an industry-recognised tool showing current account turnover and it carried out a credit check. But it estimated Mr J’s committed living expenses rather than obtaining actual information about those.

Fundamentally, there are no specific checks that lenders must complete before approving an application for credit. The rules set out by the regulator merely state that checks should take place and that they should be proportionate to the type and amount of credit being provided. So NewDay wasn’t obliged to specifically check Mr J’s bank statements before lending to him. And I don’t think in the circumstances of this case, considering the amount and type of credit being lent, against Mr J’s income and how he’d been managing recent credit, that checking bank statements would have been proportionate. But I’ve reviewed Mr J’s bank statements to understand what his committed living expenses would have looked like at the time of lending, had NewDay obtained more information about this. Having done so, this information does appear to show that when Mr J’s committed living expenses and existing credit commitments are deducted from his monthly income at the time, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Mr J feels NewDay’s checks in relation to his income also should have gone further, in particular because he was self-employed. It’s important to say that a borrower being self-employed doesn’t preclude a lender from lending. But I recognise that income can fluctuate for self-employed borrowers. And this will sometimes mean that further checks are required. For a mortgage or a much larger loan, it may be appropriate for a lender to look at a self-employed borrower’s income over a longer period of time. But here, for a credit card with a limit of £2,000 and in the circumstances of this case, I think it would have been appropriate for NewDay to look at Mr J’s finances in the months immediately preceding the application.

Which, as explained above, I think it did, by verifying the income Mr J declared. In any event, I can see that the income coming into Mr J's account is regular and significant. So I'm not persuaded further checks would have revealed Mr J's income was less than what he'd declared anyway.

Mr J also says the income showing on his bank statements is his gross monthly income and he had outgoings which impacted his net income such as owing money to HMRC for taxes, lease finance payments and a bounce back loan which wasn't visible on his credit report. I can see NewDay, by relying on a monthly net income of around £3,731, has taken into account that Mr J would be paying tax on the gross annual salary he declared. Lease finance payments are likely to have been included in the debt-to-income ratio and therefore considered as part of Mr J's credit commitments at the time of lending. And the bounce back loan wasn't taken out until after this lending so it wouldn't have been a factor. So, whilst I've thought carefully about what Mr J has said here, I don't think these aspects Mr J has raised would make a difference to whether NewDay ought to have lent to him or not.

Ultimately, for the reasons explained, I'm satisfied NewDay's income checks went far enough, and it was entitled to rely on the information it found.

NewDay's credit check showed Mr J had no recorded Individual Voluntary Arrangements (IVAs) or bankruptcies within the last three years and no outstanding public records, it had been 46 months since Mr J's last default and Mr J had no repayment plans, payday loans or current arrears. So, he appeared to be managing his existing credit well. I can see Mr J also had a credit card previously with NewDay in 2017 – which he appears to have managed well, ultimately settling and closing it. Mr J has provided copies of his own credit reports and that may show different information compared to what NewDay's checks showed at the time. But there are three credit reference agencies, lenders aren't obliged to report to all three nor are they obliged to look at all three before lending. So this could explain why there may be some differences in what Mr J can see and what NewDay could see at the time of lending. In any event, I think NewDay was entitled to rely on the information it saw.

I note our Investigator has highlighted that NewDay's credit check may have suggested Mr J was in arrears on his mortgage. I can confirm that the '1' status showing on its report actually means Mr J's mortgage was showing as up to date. However, it appears this isn't in dispute anyway as Mr J's own credit report doesn't suggest he was in arrears on his mortgage and nor does he assert this.

I also appreciate Mr J has said his bank statements and credit report show he was gambling. He's provided evidence that he's sought professional help with this. Mr J says he was vulnerable. I'm sorry to hear Mr J has been dealing with a gambling addiction and recognise it can be devastating and debilitating. But as I've said, I don't think proportionate checks would have extended to checking bank statements. And gambling affordability assessments which may be visible to Mr J on his credit report are known as 'soft checks', which aren't generally visible to external lenders. I can't see anything else in the checks that would have alerted NewDay that Mr J was spending in a compulsive and harmful way. So, I don't think NewDay could have been aware of Mr J's gambling or vulnerability and therefore I don't think it failed in its obligations by not factoring this into its lending decision or finding out more about Mr J's situation.

Mr J says he'd only been making the minimum payments on his existing credit. I recognise this can be a sign of financial difficulty. But taking into account what NewDay's checks showed – that Mr J was a relatively high earner, he appeared to have sufficient disposable income and didn't have any recent adverse information showing on his credit report, I don't think Mr J making minimum payments would have been, in isolation, cause for concern nor would it have suggested Mr J was in any serious financial difficulty.

Overall, even if I were to say the checks NewDay carried out before providing the first credit card were not proportionate, obtaining further information about Mr J's committed living expenses would have likely shown the lending was affordable. And, considering what the rest of NewDay's checks showed, I think the lending was fair. So, I'm not intending on upholding Mr J's complaint about the first credit card.

Turning to the provision of the second credit card, broadly I agree with the Investigator that the checks NewDay carried out were proportionate and the lending fair. Mr J hadn't incurred any further adverse information on his credit report since the previous lending and NewDay's credit check showed he'd been managing his existing credit well. In fact, his debt-to-income ratio was now around 35% compared to 80% and so it seemed he'd been making significant inroads into paying his balances down.

Whilst Mr J says closing his first credit card with NewDay, only to take out another shortly after, ought to have raised concerns for NewDay, on the contrary, I think his management of the first credit card demonstrated he'd been able to manage a limit of £2,000 relatively well. On the one hand, I can see Mr J did a money transfer shortly after being provided with the first card, using most of his limit as well as making some large cash advances. He also incurred a late payment fee a few months after taking out the card. But the late payment happened some time before this lending, Mr J only appears to make the minimum payment once, and clears or almost clears the balance in other months as well as ultimately clearing the balance and closing the account. So, I don't think this meant NewDay shouldn't have lent to Mr J again.

Moreover, I think NewDay's disposable income calculations were reasonable. It asked Mr J about his income and verified it again using CATO. NewDay did estimate Mr J's committed living expenses again. But here, considering the amount being lent against Mr J's income, significantly reduced indebtedness and how he'd been managing his existing external credit as well as his previous NewDay card, I think this was proportionate. And NewDay's disposable income calculations suggested the lending was likely affordable.

Therefore, I'm satisfied the checks were proportionate here and the lending fair when NewDay provided the second credit card.

Mr J has said final decisions have been made by our service with similar circumstances to his and which have been upheld. We consider each case on its merits, and I am not bound by any decision that another Ombudsman has made. It is also unlikely to be the case that any complaint and surrounding circumstances will be exactly the same as another. And I've considered everything together on Mr J's case in order to reach my outcome.

I appreciate the reality of Mr J's situation when NewDay provided these cards may have been very different. And I am sorry to hear about the personal issues he's been having – and thank him for sharing that with us. I can only hold NewDay responsible for what it knew or should have known at the time. And for the reasons explained, I don't think the checks carried out – or the checks that should have been carried out, would have revealed this.

NewDay has however upheld Mr J's complaint about the increase on the second credit card it provided. For the avoidance of doubt I agree with NewDay that it shouldn't have increased the limit. It did so, despite Mr J regularly utilising most of his credit limit, making large cash advances and generally only making the minimum payment. This suggests a potential pattern of financial distress. Whilst Mr J has raised concerns about the Investigator upholding this part of his complaint but not other parts, I can see a clear distinction in how he'd managed his second card compared to the first. So, I've found it was irresponsible of NewDay to lend further. It follows that I'm upholding this part of Mr J's complaint.

To put things right, NewDay has said it will refund all proportionate interest, all overlimit fees, all cash advance fees and all late payments fees (not already refunded) applied to Mr J's account since 23 August 2024 but only on balances above £2,000. It goes onto explain that proportionate interest is the additional amount of interest Mr J will have paid as a result of the credit limit increase. As interest always would have been chargeable on the previous credit limit, this is why a proportionate amount is being refunded and not a full refund of all interest. As Mr J still has an outstanding balance, he isn't eligible to be paid 8% simple interest on this refund. NewDay has said that once Mr J has paid his balance in full, it will remove any adverse information recorded on his credit file since 23 August 2024.

I'm satisfied this offer is fair and in line with our service's approach.

For the reasons I've explained, I'm currently not minded to say that NewDay acted unreasonably here in its decision to provide Mr J with either of the credit cards. However, I agree it shouldn't have increased the credit limit on his second credit card. So, it follows that I'm upholding this complaint in part.

Putting things right

As outline above, I agree that NewDay shouldn't have increased the limit on Mr J's second credit card.

I intend to say that NewDay should put matters right in the way outlined above.

Finally, I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Mr J in the circumstances of this complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

If either Mr J, or NewDay, disagree with my initial thoughts set out here then I can move to issue a decision. Although, I should reiterate that any formal decision will very likely be broadly similar to what I've set out here, unless I receive any information that changes my mind. I'm going to set a deadline of 8 December 2025 for a response – I will, of course, consider any further evidence or comments received by that date. If we don't hear from you by then, we'll assume you're happy for us to close your complaint."

Whilst NewDay agreed with what I said, Mr J didn't. In summary, he said:

- His taxable income for the relevant year was, in fact, much lower and inherently volatile due to being self-employed; the money flowing through his current account wasn't stable net salary. Tax is paid in lumps rather than via monthly PAYE.
- It wasn't therefore proportionate for NewDay to have relied on CATO to verify his income, in particular where the declared income appears high compared to his credit profile and outgoings.
- His actual taxable income was around £28,510, rather than £59,000 to £65,000. Therefore, any debt-to-income calculations will appear modest, if an inflated income figure is relied upon. A fall in the debt-to-income figure doesn't necessarily prove finances are improved, rather, in this instance, Mr J says it was a result of the debt being recycled, consolidated or temporarily paid down using further borrowing elsewhere.
- In relation to outgoings, NewDay shouldn't have accepted £15 per month for dependent costs. NewDay also didn't assess his wife's income. It wasn't reasonable

- for NewDay to have estimated his outgoings.
- If NewDay's internal credit search showed a mortgage in arrears, then it ought to have carried out further checks into his mortgage and overall financial stability.
 - Within the first four months of the first credit card being opened, he made three cash withdrawals totalling £280, plus a cash advance fee. These were part of a pattern of using credit to support gambling and household spending at a time of strain.
 - NewDay ought to have obtained his bank statements when assessing affordability given the high debt-to-income, mortgage, self-employment and total indebtedness. This would have revealed his gambling.
 - The bounce back loan was in fact drawn down in May 2020, the first repayment was due in June 2021, with a fixed repayment of £212.97 over the agreed term. Alongside this, he had a fleet/HPI lease with a fixed payment of £388 per month and other personal loans and revolving credit which were also being serviced. These obligations do not all show neatly on a single credit report and that's why CONC requires firms to go beyond a surface credit reference check and consider wider evidence.
 - He would like confirmation the service has reviewed all four of his main current account streams, the HMRC letters, the bounce back loan letter, the credit reports at both application dates and his clarificatory emails.
 - Overall, his realistic income was lower, he had little or no surplus income as well as multiple existing credit facilities, a Bounce Back Loan and lease, and a pattern of cash withdrawals and gambling-linked spending visible on his statements. NewDay shouldn't have relied on a declared income and obviously inaccurate dependent cost, didn't verify his wife's income and didn't obtain bank statements or probe a possible mortgage arrears marker. Despite cash withdrawals on the first credit card, NewDay went onto issue a second card.

Given Mr J hasn't agreed with what I said, I'm now issuing a formal, final decision.

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.

Having done so, whilst I appreciate this will disappoint Mr J, I'm partially upholding his complaint in the way I'd set out in my initial email. This means I'm not upholding his complaint about the initial lending on either credit card.

I recognise Mr J's strength of feeling on the matter and I'd like to thank him for taking the time to set out his points in response to my initial thoughts. I want to reassure him I've considered those carefully and, although I've summarised his points above, that's merely because our service is an informal one – I don't mean him any discourtesy by this.

I can confirm I have reviewed all of the information on file, including what Mr J has listed in his response to my informal resolution email.

I also want to explain that, whilst Mr J has requested I respond specifically and explicitly to a certain number of points, it's my role to consider evidence from both parties and then come to a decision after weighing this up. We're an informal service and not a court of law. So, whilst I will answer Mr J's points, in parts, I may do that in the round, but I can confirm I have certainly considered everything he's said and provided.

Mr J has also made some points which are similar to or the same as points he's made previously - so I may refer back to my original reasoning. However, there are points he's made which require further clarification, so I'll provide that below.

We explain how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mr J's complaint.

NewDay needed to make sure it didn't lend irresponsibly. This means it needed to carry out proportionate checks to understand whether Mr J could afford to repay before providing the lending. Generally, it might be reasonable and proportionate for a lender's checks to be less thorough (in terms of how much information it gathers and what it does to verify it) in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So, we'd expect a lender to be able to show it didn't continue to lend to its customer irresponsibly.

When Mr J was provided with the credit cards and his limit increase, NewDay was required to understand whether he could sustainably repay the full amount it was prepared to lend. Overall, I know Mr J feels NewDay should have carried out further checks, including checking his bank statements and understanding more about his self-employed income. The recent arguments Mr J has put forward don't change my mind I'm afraid, and I believe I set out previously, in detail, why proportionate checks wouldn't have extended to checking bank statements, nor to carrying out a more detailed assessment of his income. This also means I don't think Mr J's gambling or "cash-dependency" would have been revealed as part of these checks.

It's also worth pointing out that whilst I've reviewed all of Mr J's bank statements, I haven't used the information to carry out a forensic analysis to see if the repayments were affordable for card 1. Instead, I've determined what NewDay is likely to have learned, had it found out more about his living costs. I haven't just reviewed Mr J's statements at the time of lending, but I've considered a few months in the lead up to the lending to get a better idea of what his outgoings were.

Having done this, and when considering what proportionate checks would have likely shown for card 1, had NewDay obtained further information about Mr J's outgoings, I've considered he likely had sufficient income to sustainably repay this lending, even if he was solely responsible for the household's main expenses. In saying this, had NewDay obtained further information, given Mr J's wife did have money coming into one of their accounts, I think NewDay would have likely understood Mr J's wife was also contributing towards household costs. And therefore, he had more disposable income compared to if he was the sole earner. But, considering the limit being provided here as well as what NewDay's checks did reveal, I do not think proportionate checks would have extended to verifying Mr J's wife's income.

Mr J has provided evidence his Bounce Back Loan did start before this lending. Proportionate checks may have revealed Mr J had a Bounce Back Loan, if he'd declared it as an outgoing. Otherwise, it's not likely NewDay would have been aware of it, if it's not showing on Mr J's credit report. But even if Mr J's Bounce Back Loan repayments were taken into account, I'm satisfied checks would have revealed his likely disposable income was such that NewDay would have found this lending affordable.

Mr J has highlighted his lease payment to demonstrate he had additional outgoings. I can see this is showing on his credit report and therefore would likely be included in the figures NewDay saw at the time of lending when carrying out its credit check. Even if this wasn't the

case, as I've explained, I think NewDay were entitled to rely on the credit check it carried out. The lease payment wouldn't therefore likely be considered as an additional outgoing on top of Mr J's existing credit commitments.

Turning to the credit checks NewDay carried out; to be clear, its internal credit search did not show a mortgage in arrears, as Mr J has suggested. The Investigator simply read the information incorrectly, and therefore there was no requirement for NewDay to look into this further. As I explained before, there also isn't a requirement for a lender to check all three CRAs. And I don't agree in the circumstances of this case that its checks presented any reason for it to carry out further checks in relation to Mr J's credit.

For the lending on card 2, I don't agree that the fact Mr J declared he only had £15 in dependent's costs ought to have prompted NewDay to carry out more checks. Taking into account what the rest of NewDay's checks showed (it was able to verify Mr J's declared income, he'd significantly reduced his debt since the lending of the first card and had been managing existing credit well), as well as considering the relatively low monthly payment this lending would attract, I don't think it would have been proportionate for NewDay to have questioned this information further. Even if it had done so, given Mr J had declared this in the first instance, I'm not persuaded he'd declare something different, if asked again.

Mr J also suggests there might be other reasons for his debt level having fallen by the time of the provision of card 2. But ultimately, whatever the reason, I think it's fair to say NewDay could understand from this information that Mr J was in less debt than he had been previously. And this is a positive factor when making a lending decision.

In terms of Mr J's comments around how he managed card 1, and the impact this ought to have had on the lending of card 2, I reiterate my previous points. Overall, Mr J managed card 1 well and, in light of this, I don't think the cash advances, nor the one late payment signalled that he may be in financial difficulty.

I appreciate that as Mr J has said, the reality of his situation may have been very different compared to what NewDay's checks revealed – or ought to have revealed at the time of lending. But I can only hold NewDay responsible if it did something wrong.

For the reasons explained, I don't think NewDay acted unreasonably in its decision to provide Mr J with either of the credit cards. However, I agree it shouldn't have increased the credit limit on card 2. So, it follows I'm upholding this complaint in part.

Putting things right

To put things right, NewDay has said it will refund all proportionate interest, all overlimit fees, all cash advance fees and all late payments fees (not already refunded) applied to Mr J's account since 23 August 2024 but only on balances above £2,000. It goes on to explain that proportionate interest is the additional amount of interest Mr J will have paid as a result of the credit limit increase. As interest always would have been chargeable on the previous credit limit, this is why a proportionate amount is being refunded and not a full refund of all interest. As Mr J still has an outstanding balance, he isn't eligible to be paid 8% simple interest on this refund. NewDay has said that once Mr J has paid his balance in full, it will remove any adverse information recorded on his credit file since 23 August 2024.

I'm satisfied this offer is fair and in line with our service's approach and that this is how NewDay should put things right for Mr J.

Finally, I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed

above results in fair compensation for Mr J in the circumstances of this complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

My final decision is that I uphold Mr J's complaint and NewDay Ltd trading as Fluid should now put things right, as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 8 January 2026.

Sophie Kyprianou
Ombudsman