

The complaint

Mr A says NewDay Ltd trading as Marbles ('NewDay'), irresponsibly lent to him. He says that it didn't take reasonable steps to ensure he could afford the repayments towards a credit card. And NewDay shouldn't have increased the limits on the card.

Mr A's complaint has been brought by a representative and I've referred to Mr A and the representatives' comments as being from Mr A for ease of reading.

What happened

This complaint is about a credit card agreement that Mr A took out in June 2016. The initial credit limit was £900. The credit limit was decreased to £450 in November 2016 as the account was not used. Mr A started to use the card in April 2017. The credit limit was then increased several times as follows:

1. To £1,250 in August 2018.
2. To £2,750 in June 2019.
3. To £3,100 in November 2019.
4. To £5,100 in March 2020.

Mr A complained to NewDay saying that it didn't carry out proper affordability checks before approving the card and increasing the credit limit of it. And if it had done this it would have seen that he couldn't afford to repay the card, as he had other debts at the time.

NewDay considered this complaint, and it didn't uphold it. It said it was satisfied that Mr A was provided with the NewDay account responsibly. And it explained the checks it had made. Mr A didn't agree with this and brought his complaint to the Financial Ombudsman Service.

Our Investigator partially upheld Mr A's complaint. He thought the checks that NewDay made weren't proportionate. But if it had made better checks it still would have seen that the decision to approve the card was reasonable. Going forward he thought that if NewDay had made better checks at the first credit limit increase, it would have seen that the card wasn't affordable for Mr A. This is because he was spending more than his income at this point. Mr A has not accepted this proposed resolution.

NewDay didn't fully agree with the Investigator. But, after some clarification about how the Investigator had calculated Mr A's income and expenditure, it agreed that it shouldn't have approved credit limit increase 2, that is to £2,750, and Mr A should receive compensation for any interest, fees and charges for balances over £1,250. This is because its own records showed that Mr A had a very low disposable income at this time of just under £70 a month.

There was some further correspondence, but no new issues were raised. The unresolved complaint has been passed to me to make a 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.

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider when deciding what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did NewDay complete reasonable and proportionate checks to satisfy itself that Mr A 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 A could sustainably repay the borrowing?
2. Did NewDay act unfairly or unreasonably in some other way?

And, if I determine that NewDay didn't act fairly and reasonably when considering Mr A's application, I'll also consider what I think is a fair way to put things right.

Applying these to the circumstances of this complaint, I have reached the same outcome as our Investigator, for essentially the same reasons.

Mr A didn't disagree with our Investigator's opinion about the decision to approve the card. And NewDay has agreed that it shouldn't have approved credit limit increase 2 and the later credit limit increases. Because of this, I don't think there is any ongoing disagreement about these lending points, so I won't consider them in detail.

But, for the avoidance of doubt, I agree that the decision to approve the card was fair for the reasons the Investigator said, that is Mr A was likely to have had enough income to have repaid the card at this point. And I agree that NewDay shouldn't have approved credit limit increase 2 (and beyond), as its own records show Mr A had very little spare income at this time.

At the time of credit limit increase 1 in 2018, as far as I can see, NewDay didn't make any new enquiries about Mr A's income and expenditure. It relied on the information it gathered in 2016 and the information it obtained from a credit reference agency to substantiate what it knew about Mr A's financial circumstances. It says that these checks, in combination with its 'low and grow' credit limit increase strategy, was enough here.

But I don't think these checks went far enough at credit limit increase 1 because it was a long time since the information about Mr A's income was obtained. And Mr A hadn't used the card a great deal at the start and so NewDay couldn't build up a picture of his spending and payment habits, to inform it about what he could, or couldn't, afford to repay. So, I agree that it should have made better checks. I note that NewDay didn't disagree with our Investigator when he said this, so I don't think I need to add more.

Mr A has also provided copies of his bank statements for the period surrounding the first credit limit increase. While I wouldn't have expected NewDay to have asked Mr A for copies of these, I'm satisfied that these statements would give a good indication of what NewDay would likely have taken into consideration had it asked Mr A to verify, or provide more information about, his income and committed expenditure during that specific period.

Our Investigator made a detailed analysis of these bank statements over the period just before the first credit limit increase. These showed that Mr A wouldn't likely have enough money left over to repay the card. I agree with these calculations and I'm not going to go into the detail here. This is because they were provided to NewDay, with some explanations, and it didn't say that they were incorrect. I agree that the card repayments for this increase were likely to be unaffordable for Mr A.

NewDay has agreed that Mr A was unlikely to be able to afford the card from credit limit increase 2. This is because its own information shows that Mr A had very little spare income then. But it does look like this is the earliest point that NewDay collected enough information to enable it to say that Mr A couldn't afford the card repayments. So, it doesn't affect my decision that credit limit increase 1 was also not affordable for him.

Overall, I think if NewDay had made better checks at credit limit increase 1 it would have seen that Mr A couldn't sustainably afford the repayments to the card from this point onwards. And notwithstanding the initial credit limit of £900 was affordable, this was reduced to £450 shortly after the card started. And my decision is essentially that it shouldn't have been increased beyond £450 as it was unaffordable for Mr A when NewDay did this. So, Mr A should receive compensation based on an account with this credit limit.

Did NewDay act unfairly or unreasonably in some other way?

I've considered whether the relationship between Mr A and NewDay might have been unfair under section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed should be carried out for Mr A results in fair compensation for him 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.

I haven't seen anything to make me think NewDay acted unfairly or unreasonably in some other way.

Putting things right

As I don't think NewDay should have increased Mr A's credit limit above the £450 set in November 2016, I don't think it's fair for it to charge any interest or charges on any balances which exceeded that limit. However, Mr A has had the benefit of all the money he spent on the card so I think he should pay this back. Therefore, NewDay should:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £450 after 17 August 2018.
- If the rework results in a credit balance, this should be refunded to Mr A 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 recorded after 17 August 2018 regarding this account from Mr A's credit file.
- Or, if after the rework the outstanding balance still exceeds £450, NewDay should arrange an affordable repayment plan with Mr A for the remaining amount. Once Mr A has cleared the outstanding balance, any adverse information recorded after 17 August 2018 in relation to the account should be removed from their credit file.

If NewDay has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Mr A a certificate showing how much tax has been taken off if he asks for one. If it

intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax

My final decision

For the reasons I've explained, I uphold Mr A's complaint. NewDay Ltd should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 13 November 2025.

Andy Burlinson
Ombudsman