The complaint

Mr B complains that NewDay Ltd acted irresponsibly when they agreed to a credit card account and subsequent credit limit increases.

In bringing his complaint Mr B is represented by a third party. For ease of reading I will only refer to Mr B in my decision.

What happened

Around March 2019 Mr B applied for a credit card account with NewDay. His application was successful and NewDay issued him with a credit card with a credit limit of £900. NewDay increased Mr B's credit limit in incremental steps as shown below:

Date	Credit Limit Increase	New Credit limit
May 2020	£1,250	£1,850
Aug 2020	£750	£2,600
Dec 2020	£1,250	£3,850
May 2021	£1,000	£4,850
June 2022	£1,500	£6,350

Mr B said he struggled to sustain his repayments and had NewDay properly checked they would have seen his reliance on credit. He said his credit card account showed he was late making his payments, went over his limit and had regular cash advance transactions. He complained to NewDay.

NewDay said they'd used Mr B's application, credit reference agency (CRA) and statistical data to determine his credit worthiness. Based on these checks they said Mr B had sufficient disposable income to sustain his repayments. They said there wasn't any evidence of financial vulnerability such as missed payments on Mr B's other credit commitments, they hadn't seen any use of short-term lending or any payment arrangements. NewDay said their lending decision was fair. Mr B wasn't happy with NewDay's response and referred his complaint to us.

Our investigator found NewDay's checks for the initial account opening were reasonable and proportionate and NewDay's decision to lend to Mr B was fair. But said there was evidence of financial vulnerability which meant any further lending by NewDay was irresponsible. She asked NewDay to put things right.

NewDay didn't agree they said while the evidence might show Mr B's mismanagement of his credit card account, it wasn't reflective of financial strain. They asked for the complaint to be decided by an ombudsman.

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 I'm partially upholding this complaint. 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 Mr B would be able to repay the debt in a sustainable way.

In deciding what was proportionate NewDay needed to consider things such as (but not limited to): the amount of credit, the size of any regular payments (taking into consideration the rules and guidance in CONC relating to assumptions concerning revolving credit), the cost of credit and the consumer's circumstances.

What's important to note is that Mr B was provided with a revolving credit facility rather than a loan. NewDay was approving a credit limit of £900. As it was revolving credit there's no set amount that needed to be repaid each month, but CONC requires a firm to assume when carrying out their assessment that the entire credit limit is drawn down at the earliest opportunity and repaid in equal instalments over a reasonable period. So, I think NewDay could have reasonably assumed Mr B would need to be able to pay around £45 each month to clear the full amount owed within a reasonable period.

While there isn't a set list of checks a lender must do, CONC says they should take reasonable steps to estimate a consumer's income and non-discretionary expenditure. CONC says a lender generally shouldn't solely rely on the income declared by a consumer but seek validation through an independent source (such as a CRA) or third party. CONC also allows for the use of statistical data in estimating a consumer's non-discretionary expenditure.

I've looked at the checks NewDay did and what these showed.

Mr B declared he'd an annual income of £27,106, NewDay cross checked this through a Current Account Turn Over (CATO) check with a CRA. They also checked Mr B's credit history with the CRA as well as using his declared costs and statistical modelling. From these checks they assessed Mr B to have a monthly income of £1,675.71, monthly credit commitments of £53.80, day to day livings costs of £437.03 and housing costs of £207. Based on these checks NewDay considered Mr B should have had £977.88 in disposable income before factoring in the new lending.

A lender should also consider whether a consumer shows signs of financial vulnerability. NewDay's CRA check showed Mr B was managing his active credit commitments. But had a default registered 36 months prior to the new lending.

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. Here, NewDay considered the information that Mr B had on his credit file and made the decision to lend which, in the circumstances, I think was reasonable. I say this as it wouldn't be fair for a consumer to be unable to get credit because of previous struggles when there is evidence that their financial situation has improved. Here Mr B's indebtedness was low, he was managing his active accounts well, he'd a regular income with no signs of current financial problems. And his default could be seen to be historic.

So, I'm satisfied the checks NewDay did were reasonable and proportionate for the type and amount being borrowed. I don't think that there was anything immediately obvious in the information that NewDay had, including Mr B's existing credit, which meant they shouldn't rely on it. So, I don't think NewDay needed to have asked Mr B to provide further evidence in support of his expenditure such as bank statements, before providing him with credit in this instance. And based on these checks Mr B should have had sufficient disposable income to sustain his repayments. So, I'm satisfied NewDay made a fair lending decision.

Mr B's credit card was opened in March 2019 with a credit limit of £900. I can see that in October 2019 NewDay reduced Mr B's credit limit by £300 to £600. NewDay has said that after review they reduced Mr B's credit limit because of his management of the account which included instances of late payments or by him exceeding his credit limit.

In May 2020 NewDay increased Mr B's credit limit by £1,250 to £1,850. They've shown they did the same checks, verifying Mr B's income, checking his credit history with a CRA and using statistical data for assessing his day to day living costs. These checks assessed Mr B has having a monthly income of £3,111, housing costs of £414, credit commitments of £116 and day to day livings costs of £495. Based on these checks NewDay deemed Mr B had a disposable income of £2,086 before factoring in the new lending. NewDay also had internal data that showed how Mr B was managing his credit card account. While I'm satisfied the checks NewDay did were reasonable and proportionate, based on these checks I don't think they made a fair lending decision.

We consider that the checks should be "borrower-focused" – so NewDay had to think about whether repaying the increased lending would be sustainable. Meaning NewDay needed to ensure that making the repayments wouldn't cause Mr B undue difficulty or significant adverse consequences. In other words, it wasn't enough for NewDay to simply think about the likelihood of them getting their money back – they needed to consider the impact of the repayments on Mr B himself.

NewDay had reduced Mr B's credit limit in October 2019 after he'd one late fee and one cash advance transaction. NewDay's records show that after they'd reduced Mr B's credit limit in the months leading up to when they increased his credit limit, he'd cash advances showing in December 2019, January 2020 and February 2020. Most credit cards allow for the withdrawal of cash; this is known as a cash advance. It allows for a consumer to get cash when they need it. But it can be an expensive way to borrow. That's because the consumer most likely will be charged a cash withdrawal fee and they might face paying a high rate of interest that is applied as soon as the cash is withdrawn. So, cash advances can be seen as a consumer struggling with their finances. NewDay's records also show Mr B had over the limit and late payment fees in January 2020. I do note that Mr B sometimes made repayments prior to the credit limit increase that were a lot higher than his minimum repayment, but at times he also only paid the minimum payment required.

Taking all the above into account, I'm satisfied there were sufficient indicators that showed Mr B was struggling financially. Within the timeframe – six months from when NewDay reduced Mr B's credit limit because of his management of his credit card account, to when they significantly increased his credit limit, he'd shown the same pattern of management, cash advances, over the limit and late payment fees.

I've thought carefully about NewDay's comments, especially those made in response to the investigator's assessment. NewDay said that Mr B had only been late with one payment and incurred only one over the limit fee. They said Mr B was able to bring his account up to date and made payments on time thereafter. But considering NewDay's reasoning for reducing Mr B's credit limit I don't think they acted responsibly by increasing Mr B's credit limit only a few months later when there was similar evidence that had caused them to reduce his credit limit previously, Mr B’s management of his account. And the use of cash advances, over the limit and late payment fees I think shows signs of financial vulnerability. I can also see Mr B continued to make cash advances from May 2020 for several months after his credit limit was increased.

So, I don’t think NewDay acted responsibly in increasing Mr B’s credit limit and it wouldn’t be fair for me to reassess my decision based on how the account was managed in hindsight. As I don’t think the credit limit increase should have been given it follows by extension that any subsequent credit limit increases shouldn’t have been given either.

I’ve also considered whether NewDay acted unfairly or unreasonably in some other way given what Mr B has complained about, including whether their relationship with him might have been viewed as unfair by a court under Section 140A Consumer Credit Act 1974. But I’m satisfied the redress I’ve directed below results in fair compensation for Mr B in the circumstances of his complaint. I’m satisfied, based on what I’ve seen, that no additional award would be appropriate in this case.

Putting things right

While I don’t think NewDay should have increased Mr B’s credit limit from May 2020, Mr B has had the benefit of the monies he borrowed. So, I think its only fair that he should pay this back. But I don’t think its fair that he should pay any interest and charges that have been applied to his account from when this credit limit increase was applied.

My final decision

I partially uphold this complaint. And ask NewDay Ltd to:

- Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied from May 2020 to balances above £900. If the rework results in a credit balance, this should be refunded to Mr B along with *8% simple interest per year calculated from the date of each overpayment to the date of settlement.
- Remove all adverse information recorded after May 2020 regarding this account from Mr B's credit file. Or,
- If after the rework the outstanding balance still exceeds £900 NewDay should arrange an affordable repayment plan with Mr B for the remaining amount. Once Mr B has cleared the outstanding balance, any adverse information recorded after May 2020 in relation to the account should be removed from his credit file.

His Majesty's Revenue & Customs requires NewDay Ltd to deduct tax from any award of interest. It must give Mr B a certificate showing how much tax has been taken off if he asks for one. If they intend to apply the refund to reduce an outstanding balance, they must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 December 2025.

Anne Scarr
Ombudsman