

The complaint

Mr J complains that NewDay Ltd irresponsibly lent to him.

What happened

- Mr J was approved for an NewDay credit card (which I will refer to as A in this decision), in March 2019 with a credit limit of £300. I have detailed the credit limit changes below:

September 2019	£300 to £1,550
January 2020	£1,550 to £2,300
July 2020	£2,300 to £2,800
December 2020	£2,800 to £3,800
June 2022	£3,800 to £250
October 2022	£250 to £1,000
March 2023	£1,000 to £1,850
January 2024	£1,850 to £2,850
May 2024	£2,850 to £3,650

- Mr J was approved for another NewDay credit card (which I will refer to as B in this decision), in October 2020 with a credit limit of £300. I have detailed the credit limit changes below:

February 2023	£300 to £1,150
September 2023	£1,150 to £1,850
August 2024	£1,850 to £2,600

- Mr J made a complaint to NewDay about irresponsible lending, who did not uphold his complaint. Mr J brought his complaint to our service.
- Our investigator did not uphold Mr J's complaint. He said that while NewDay should have made further checks on some of the lending decisions, the lending was fair.
- Mr J asked for an ombudsman to review his complaint. He made a number of points. In summary, he said NewDay did not ask for his expenditure, and even if they would have requested his bank statements he had cash expenses such as food, some bills, and transport which would not be on his statements.
- Mr J said he was always utilising his overdraft to make ends meet and he had no emergency fund or savings account to speak of.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint."

Mr J has made a number of points to this service, and I've considered and read everything he's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the main parts of his complaint in deciding what's fair and reasonable here.

I must make Mr J aware that I will only be looking into his irresponsible lending complaint. This is because Mr J's original complaint to NewDay only referenced a complaint about irresponsible lending. I am aware Mr J has since made additional complaint points, and NewDay have confirmed that they will look into these complaint points separately. If Mr J does not agree with the outcome of the separate complaint, then our service may be able to open a separate case for him if he wants us to.

Before agreeing to approve or increase the credit available to Mr J, 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. I've listed below in date order what checks NewDay have done and whether I'm persuaded these checks were proportionate.

Acceptance for A

I've looked at what checks NewDay said they did when initially approving Mr J's application. I'll address the credit limit increases under the headings in the following sections. NewDay said they looked at information provided by Credit Reference Agencies (CRA's) and information that Mr J had provided before approving his application.

The information showed that Mr J had declared a gross annual income of £20,000. The CRA reported that Mr J had no County Court Judgements (CCJ's), but he had defaulted on at least one account 37 months prior to the checks.

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. So I've looked at what else NewDay's information showed them, to see if they made a fair lending decision to accept Mr J's application.

The CRA NewDay used reported that Mr J had a debt to income ratio of 12.47%, which based on his declared gross annual income this would have equated to around £2,494.

The CRA had reported that Mr J had not been in arrears on any of his active accounts in the previous six months and he had no payday loans, or any arrangements to pay on any of his active accounts. The £300 credit limit would equate to around 1.5% of his declared gross annual income.

NewDay completed an affordability assessment using a mixture of information from a CRA and modelling which is an industry standard way of assessing affordability. So although Mr J believes that NewDay should have asked him for his outgoings, it is not always proportionate for them to do so, and the regulator doesn't require them to for each lending decision they make. The affordability assessment showed that Mr J should be able to sustainably afford repayments for a £300 credit limit.

So I'm satisfied that the checks NewDay carried out here, prior to approving the initial £300 credit limit were proportionate and that NewDay made a fair lending decision to approve Mr J's application for A.

September 2019 credit limit increase on A - £300 to £1,550

A CRA reported that Mr J's active unsecured debt at the time of the checks for this lending decision was £3,172, which would have equated to around 15.86% of Mr J's originally declared gross annual income.

The CRA reported that Mr J had no arrears on any active accounts since A had been opened. NewDay would have also been able to see how Mr J used A since it had been opened.

Mr J incurred one late fee and one overlimit fee since the account had been opened. So these could be signs of financial difficulties. But it appears that these were oversights. I say this because every month Mr J was required to make a repayment he did make a repayment. So I'm not persuaded that a one off late payment which was made by Mr J in the same calendar month it was requested should have resulted in further checks from NewDay.

Although Mr J exceeded his credit limit once, in the following month he made repayments totalling £95.26. In the following month after this, he made repayments totalling £100, which I wouldn't expect Mr J would be able to make if he was struggling financially. He had reduced his usage on A to just over a third, so he wasn't utilising most of the credit available to him.

So I'm persuaded that NewDay's checks were proportionate here, and they made a fair lending decision to increase the credit limit on A to £1,550.

January 2020 credit limit increase on A - £1,550 to £2,300

A CRA reported that Mr J's active unsecured debt at the time of the checks for this lending decision was £4,983, which would have equated to around 24.9% of Mr J's originally declared gross annual income.

The CRA reported that Mr J had arrears on an active account since the last lending decision on A. And a different CRA reported an active account in arrears in the following month.

Mr J incurred one late fee since the last lending decision, and unlike the previous late fee he incurred, he made no repayment to A that calendar month. So based on the arrears showing with the different CRA's, I'm persuaded that NewDay should have made further checks to ensure Mr J could make affordable and sustainable repayments for a credit limit which was increasing by almost 50%.

There's no set way of how NewDay should have made further proportionate checks. One of the things they could have done was to contact Mr J to ask him why he had been in arrears on an account. Or they could have asked for his bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for him.

Mr J has provided his bank statements leading up to this lending decision. Mr J enters an arranged overdraft in each of the three months leading up to this lending decision. But using an arranged overdraft in its own right does not mean that any further lending would be unaffordable for Mr J. So I've looked at what else Mr J's statements showed.

Mr J is showing entering an unarranged overdraft at times. He also has four returned direct debits – all of which are in December 2019 – the month prior to the credit limit increase. As the bank statement is dated 27 December 2019, then I'm persuaded that it would have been produced when NewDay made the checks for this lending decision.

The returned direct debits varied between £7.29 and £23.98, which showed that Mr J had no disposable income to pay even relatively small direct debit payments just before this credit

limit increase. So I'm not persuaded that NewDay made a fair lending decision to increase the credit limit on A here.

Further lending decisions including B

If Mr J's credit limit was not approved for £2,300, then it's probable that the further lending decisions wouldn't have happened after this either including B. I say this because B was approved less than a year after the £2,300 credit limit increase on A. I also note on the account opening checks for B it showed the CRA told NewDay Mr J had an Individual Voluntary Arrangement in the past three years, but this wasn't showing on the account opening checks for A (which was opened less than two years before B).

So I think there is an argument for saying that Mr J's complaint about the subsequent lending decision including B should be upheld without making a finding on reasonable and proportionate checks. After all, if matters had played out as the evidence suggests they should have done in January 2020, then I'm not persuaded that NewDay would've added to the credit.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed at the end of this decision results in fair compensation for Mr J 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."

I invited both parties to let me have any further submissions before I reached a final decision. Mr J agreed to the findings of the provisional decision. NewDay did not respond to the provisional 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.

As neither party have provided me with any further information to consider, then my decision and reasoning remains the same as in my provisional decision.

Putting things right

In the provisional decision I said I intend to uphold this complaint in part. I said I intend to ask NewDay Ltd to take the following actions;

Card A:

- NewDay should arrange to transfer any debt back to themselves if it has been passed to a debt recovery agent or liaise with them to ensure the redress set out below is carried out promptly;
- Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied to balances above £1,550 after 8 January 2020;
- If the rework results in a credit balance, this should be refunded to Mr J 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 regarding this account from Mr J's credit file recorded after 8 January 2020;

- Or, if after the rework the outstanding balance still exceeds £1,550, NewDay should arrange an affordable repayment plan with Mr J for the remaining amount. Once Mr J has cleared the balance, any adverse information recorded after 8 January 2020 in relation to the account should be removed from Mr J's credit file.

Card B:

- NewDay should arrange to transfer any debt back to themselves if it has been passed to a debt recovery agent or liaise with them to ensure the redress set out below is carried out promptly;
- Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied;
- If the rework results in a credit balance, this should be refunded to Mr J 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 regarding this account from Mr J's credit file;
- Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Mr J for the remaining amount. Once Mr J has cleared the balance, any adverse information in relation to the account should be removed from Mr J's credit file.

I'm still satisfied this is a fair outcome for the reasons given previously.

**If NewDay considers that they are required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mr J how much they've taken off. They should also give Mr J a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

My final decision

I uphold this complaint in part. NewDay Ltd should settle the complaint in line with the instructions in the *"Putting things right"* section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 December 2025.

Gregory Sloanes
Ombudsman