

complaint

Mr C complains that NewDay Ltd lent to him in an irresponsible manner when it approved his application for a credit card in May 2014, and then increased his credit limit four months later.

background

The background to this complaint was set out in the provisional decision I issued in February 2021. An extract from this is attached and forms part of this final decision, so I will not repeat that information here.

In my provisional decision I explained why I didn't think the complaint should be upheld. I invited both parties to let me have any further comments and evidence. We haven't received anything further from either NewDay or Mr C.

my findings

I've once more considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Given that neither party has provided me with any new evidence or further comments I see no reason to alter the conclusions I reached in my provisional decision.

So for the reasons I explained in my provisional decision I don't think NewDay was wrong to originally offer the credit card to Mr C. And based on the information I have available I am not able to conclude that proportionate checks should have led NewDay to conclude it shouldn't offer the credit limit increase to Mr C either.

my final decision

For the reasons given above, and in my provisional decision, I don't uphold the complaint or make any award against NewDay Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 23 April 2021.

Paul Reilly
ombudsman

EXTRACT FROM PROVISIONAL DECISION

complaint

Mr C complains that NewDay Ltd lent to him in an irresponsible manner when it approved his application for a credit card in May 2014, and then increased his credit limit four months later.

background

NewDay accepted Mr C's application for an Aqua credit card in May 2014. It opened his account and agreed to an initial credit limit of £600. In August 2014 NewDay offered to increase Mr C's credit limit to £1,300. In December 2014 Mr C started to face problems meeting his contractual minimum payments on the account. His account was defaulted in September 2016 and I understand that his debt has now been transferred to a third party.

Mr C's complaint has been assessed by one of our investigators. She thought that it had been reasonable for NewDay to offer the credit card with the £600 credit limit to Mr C. But she didn't think the checks NewDay had done before increasing the credit limit had been sufficient. So she thought that Mr C's complaint should be upheld and she asked NewDay to pay Mr C some compensation.

NewDay didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. We've set out our approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding Mr C's complaint.

The rules and regulations at the time NewDay first opened the credit card account for Mr C, and when it increased the credit limit, required it to carry out a reasonable and proportionate assessment of whether he could afford to repay what he owed in a sustainable manner. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so NewDay had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Mr C. In practice this meant that NewDay had to ensure that making the repayments wouldn't cause Mr C undue difficulty or adverse consequences. In other words, it wasn't enough for NewDay to simply think about the likelihood of it getting its money back, it had to consider the impact of any repayments on Mr C.

Checks also had to be "proportionate" to the specific circumstances of the credit application. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);

- the *longer* the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether NewDay did what it needed to before agreeing to lend to Mr C.

NewDay gathered some information from Mr C before it agreed to offer him the credit card. It asked him for details of his income. And it checked his credit file to assess how he had managed credit in the past. That check showed that he had previously defaulted on an account. But since that default had been recorded almost six years earlier I think it was reasonable for NewDay to decide that didn't have any significant impact on Mr C's application.

I think the checks NewDay did when it first offered the credit card were proportionate. The initial credit limit that NewDay set on Mr C's credit card was relatively modest so the amounts that Mr C needed to repay were small compared with the income he'd declared. Given these repayment amounts and what was apparent about Mr C's circumstances at the time, I don't think it would've been proportionate for NewDay to ask him for the amount of information that would be needed to show the lending was unsustainable before offering him the credit card.

NewDay has told us that this particular credit card was aimed at consumers who might have faced problems with credit in the past. So it would generally offer a low credit limit at the start, before increasing that limit when a consumer had demonstrated they were able to manage the credit that had been offered in a responsible manner.

I note that NewDay says that Mr C was only offered the credit limit increase – it says he was free to reject the offer if he wished. But I think that misses the fundamental point that it was NewDay, not Mr C, that was required to ensure the offered credit was sustainably affordable. The regulations were in place to protect consumers – not to assist lenders in managing the risk of repayments not being made.

The increase in Mr C's credit limit was significant. And it was made only three months after he had first taken the credit card – I don't think that was anywhere near long enough for NewDay to have gained any significant degree of confidence over his use of credit. The minimum repayments that Mr C would need to make had more than doubled.. So I would think it reasonable that NewDay would want to gather, and independently check, some detailed information about Mr C's financial circumstances before it agreed to increase the credit limit. I don't think that the checks it has told us about were enough. I think it would have been proportionate for NewDay to independently check the true state of Mr C's finances before agreeing the credit limit increase.

But although I don't think the checks NewDay did before increasing the credit limit were sufficient, that in itself doesn't mean that Mr C's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown NewDay that Mr C couldn't sustainably afford the repayments. So we asked Mr C for copies of his bank statements from the time so we could see what better checks might have shown NewDay.

At this stage I want to be clear that I am not suggesting that this is the exact check that NewDay should have carried out. I do think NewDay needed evidence to demonstrate in detail what was happening with Mr C's finances. And looking at his bank statements is one way of achieving that although there are of course many other ways that level of detail could be established. But I think that by looking at Mr C's bank statements I can get a good idea of what better checks might have shown.

But Mr C hasn't given us the information we asked for, or an explanation why he can't provide it. So, I haven't been able to get a picture of what his financial circumstances were like at the relevant time. That means I can't say that, if NewDay had completed sufficient checks, it would've found that Mr C couldn't afford to repay the borrowing in a sustainable manner.

So in summary I don't currently think NewDay was wrong to originally offer the credit card to Mr C. And based on the information I currently have available I am not able to conclude that proportionate checks would have led NewDay to conclude it shouldn't offer the credit limit increase to Mr C either. Of course, if Mr C is able to provide the information we have asked for, I will reconsider his complaint.