

## **Complaint**

Mr C has complained that NewDay Ltd ("NewDay") irresponsibly provided him with six different card accounts which it ought to have realised that he couldn't afford to repay.

## **Background**

Mr C applied for and was provided with six different credit accounts with NewDay between January 2018 and April 2018. The cards provided were a mix of credit cards and store cards. The credit limit on some of these accounts were increased. When it reviewed Mr C's complaint, NewDay accepted that it shouldn't have given Mr C his sixth account. But it didn't think that it had done anything wrong in relation to the first five of them.

Mr C's complaint was then reviewed by one of our adjudicators. And she thought that NewDay shouldn't have provided Mr C with any of the cards. She told NewDay it needed to remove the effect of all of the interest and charges added to Mr C's accounts and also remove any adverse information recorded on Mr C's credit file as a result of these accounts.

NewDay accepted, our adjudicator's finding, that it shouldn't have provided the five accounts. It also agreed to make sure that Mr C didn't pay any interest, fees or charges on them. But it didn't agree to remove any adverse information recorded on Mr C's credit file as a result of these accounts. And it asked for an ombudsman to review the case.

## **My 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 explained how we handle complaints about unaffordable/irresponsible lending on our website – including how we look to put things right. And I've used this approach to help me decide Mr C's complaint.

Both NewDay and Mr C are in agreement that he shouldn't have been provided with any of these accounts. So I don't need to consider whether NewDay decisions to provide these accounts were fair and reasonable. I simply need decide whether what it has offered to do to put things right for Mr C is fair and reasonable bearing in mind the circumstances of this case.

Having carefully thought about everything provided, I think that NewDay needs to do a little more in order to put things right in a fair and reasonable way for Mr C. I'd like to explain why I think this the case.

Our adjudicator told NewDay that we'd generally expect a lender to refund all interest, fees and charges added to any account that shouldn't have been provided and also remove any associated adverse information recorded on the consumer's credit file. But while we have a general approach to how we might tell a lender to put things right if it has provided credit it shouldn't have, we can tell it to do something different and/or something more if there's a strong enough reason to say that's what would be fair and reasonable to do in the circumstances of that individual case.

But, in this case, NewDay hasn't explained why I should do something different it has simply said that it doesn't want to remove any adverse information in this case. I don't think it's fair and reasonable for Mr C to have to deal with the implications of any adverse information when this information will be recorded about accounts, which all parties agree, shouldn't

have been provided to him in the first place. So, in these circumstances, I've not been persuaded that there's a strong enough reason for me to depart from our usual approach to putting things right in upheld cases about unaffordable or irresponsible lending. And I find that NewDay should remove any adverse information recorded on Mr C's credit file as a result of these accounts.

I've also thought about Mr C's arguments that he should be paid additional compensation. I can ask a business to compensate for any additional (or consequential) losses that a consumer might've suffered, or if they've been inconvenienced. But only usually where there's a clear and direct link between what the business did wrong and any additional losses suffered and/or what the business has done to put things right doesn't reflect how much the consumer has been inconvenienced.

I've carefully thought about Mr C's arguments. But I'm sorry to inform him that I don't think that there's a strong enough argument for me to say that NewDay providing him with these accounts caused him additional losses. It's not in dispute that Mr C did borrow money from elsewhere. But I don't think that there's a strong enough argument for me to say that NewDay directly, either wholly, or even in a significant way, caused the losses that Mr C is looking to be compensated for. I say this while especially mindful of the fact that the entire premise of Mr C's complaint is that NewDay shouldn't have lent to him in the first place because of the precarious financial position he was already in.

I accept that NewDay continued to ask for the minimum payment due on the accounts after it accepted that the cards shouldn't have been provided but nonetheless exercised its right to ask for an ombudsman's decision in relation to Mr C's credit file. But I don't think that this was unreasonable as Mr C still had to (and still has to) repay what he was originally lent even though his complaint has been upheld.

So overall while I do think that NewDay does have to do more to put things right for Mr C in terms of his credit file, I don't find that it has to pay him any additional compensation.

### **Fair compensation – what NewDay needs to do to put things right for Mr C.**

Having carefully considered everything, I find that it would be fair and reasonable in all the circumstances of Mr C's complaint for NewDay to put things right in the following way:

- rework each of Mr C's accounts so that all the interest, fees and charges applied from the outset are removed;

AND

- if an outstanding balance remains on any account once these adjustments have been made NewDay should contact Mr C to arrange a suitable repayment plan for this.

OR (if the effect of removing all interest fees and charges results in there no longer being an outstanding balance on an individual account)

- any extra should be treated as overpayments and returned to Mr C.
- pay interest of 8% simple a year on any overpayments from the date they were made (if they were) to the date of settlement†;

- NewDay should also remove all adverse information recorded about these accounts from Mr C's credit file.

† HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Mr C a certificate showing how much tax it's taken off if he asks for one.

### **My final decision**

For the reasons I've explained, I'm upholding Mr C's complaint. NewDay Ltd should put things right for Mr C in the way that I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 3 May 2020.

Jeshen Narayanan  
**Ombudsman**