

complaint

Mr C complains that it was irresponsible for NewDay Ltd (NewDay) to give him a credit card and then regularly increase his limit without checking he could afford it.

background

Mr C opened a credit card account with NewDay in late 2013, and was given a credit limit of £250. Over the next few years NewDay regularly offered to increase the credit available on Mr C's account. Mostly this was every six months, although NewDay says on one occasion Mr C asked for an increase (in March 2017) rather than it being offered. The last increase was in early 2018 when the limit increased to just under £6,000. In June 2018 Mr C's outstanding balance was just under £5,300.

Mr C complained shortly after the last increase, saying NewDay should have noticed he couldn't afford the credit he was offered, and that he had lots of other debt as well.

NewDay responded to simply say it hadn't done anything wrong without much explanation of what it had done. Unhappy with this, Mr C brought his complaint to this service.

Our investigator recommended Mr C's complaint should be upheld in the main. She noted that NewDay did a credit search on Mr C when he first applied for the card, and it provided him with a relatively small limit. She didn't think that was unreasonable. But she said that even before the first increase, Mr C was only making the minimum payment on his account and had been using his card for cash advances. She also noted he'd taken out two other credit cards and several payday loans shortly after getting the card, and that this should have been information available to NewDay if it had carried out proportionate checks.

She went on to say that before Mr C's limit was increased the second time he'd had to make an arrangement to repay one of his payday loans over a longer period than at first agreed – and he was in arrears on one of his other credit cards. He'd also been over his limits on other cards and using them for cash advances.

Our investigator concluded that these were all signs that Mr C might be experiencing financial difficulties, and that NewDay should have been reasonably assessing Mr C's situation before deciding to increase his credit facility.

She didn't think NewDay had done enough when it said it had assessed how Mr C had used his credit facility with it – she thought it should have looked at his wider financial situation. And she thought if it had done that it would have realised increasing his limit wasn't appropriate.

She recommended NewDay compensate Mr C by re-working his account as though he'd never had a limit above £250. She said any refund of interest or charges due could be used to reduce or clear any outstanding balance – and if there was money left over it should be returned to Mr C with relevant interest.

Mr C accepted this view. NewDay said it didn't and asked for more time to send in a fuller response before the complaint was looked at by an ombudsman. It hasn't done that, so I've been asked to decide this complaint based on the information we do have.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account any relevant laws and guidelines to best practise operating at the time NewDay offered credit to Mr C.

The guidance available to NewDay when it offered Mr C his credit card – and for the first couple of increases – was that creditors should take reasonable steps to assess a borrower's likely ability to be able to meet repayments under the credit agreement in a sustainable manner.

In summary, that means NewDay should have assessed whether or not Mr C could repay the debt in a reasonable period of time. The fact that he might be able to service his debt by making minimum repayments on his card account doesn't automatically mean he could pay it off in a reasonable period.

There's no set list of things a lender has to check, but they might include things like its record of previous dealings with the borrower, evidence of income and outgoings, a credit score, a credit report or information it got from the borrower.

NewDay says it recorded Mr C's income and conducted a credit search before it provided Mr C with the credit card. And it points out it often provides credit to people who otherwise might not get a credit card, using its commercial judgement. Given the low amount of credit NewDay offered at this point I don't think its decision to lend to him was irresponsible.

I'm afraid I can't say the same about any of the later increases. As our investigator said (and I summarised above) there were signs that Mr C's financial situation might be deteriorating. And I think these signs – like making only minimum repayments and taking cash advances – were things that NewDay should have noted when it reviewed his account before offering any increases. They should have prompted NewDay to make better enquiries before increasing this or any subsequent limit.

I don't think NewDay did that. NewDay says if Mr C's account had been over its limit at any point he must have brought his account into order before it increased his limit. But I don't think that constitutes an appropriate assessment, even if NewDay had shown us that actually happened.

If NewDay had carried out proportionate enquiries, I think it likely it would have seen Mr C was facing challenges repaying other lenders as described by our investigator, and that he couldn't afford more credit.

It follows that I think NewDay acted irresponsibly when it increased Mr C's limit the first couple of times – and so none of the subsequent increases should have been offered without proper checks.

I haven't seen that it did this. So I think it was irresponsible of NewDay to continue to increase Mr C's limit.

putting things right

NewDay should now put things right for Mr C. To do that it should put Mr C in the position he'd have been in if it hadn't offered any increases on his original limit. So, from the date it increased his limit to £750 (about February 2016) it should:

- re-work the account to determine what the balance of the card would be now if it didn't charge Mr C interest or overlimit fees on any balance above £250 after it increased his limit to £750
- the money should be used to reduce Mr C's debt in the first instance
- in the event the re-working results in a positive credit balance, any money due back to Mr C should have added simple interest* of 8% per year from the date Mr C's limit was increased to the date of settlement

*HMRC requires NewDay to take off tax from this amount before it's paid to Mr C. NewDay must give Mr C a certificate of tax deducted if he asks for one.

my final decision

My decision is that I uphold this complaint and I order NewDay Ltd to pay Mr C as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 28 October 2018.

Sue Peters
ombudsman