

complaint

Mrs B complains that NewDay Ltd didn't carry out proper affordability checks for three credit card accounts provided to her between 2013 and 2015.

background

Mrs B was given a credit card in November 2013 with a credit limit of £1,000. NewDay then gave Mrs B further credit cards with limits of £1,000 in February 2015 and December 2015.

Mrs B complained to NewDay in early 2019 saying that she should not have been given these cards as no affordability checks were carried out. Mrs B said that she has been diagnosed with a spending addiction and that she owes a substantial amount of money to several creditors. Mrs B mentioned that she became unemployed in 2018 and has relied on her husband to make payments to NewDay under a debt management plan.

NewDay didn't uphold the complaint but in doing so only referred to the first credit card. It subsequently offered Mrs B £50 for not investigating her complaint properly.

One of our adjudicators looked at Mrs B's complaint. She didn't think NewDay had done anything wrong and didn't think the credit cards had been irresponsibly lent. Mrs B disagreed with our adjudicator and asked for an ombudsman's decision.

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 set out our approach to unaffordable and irresponsible lending complaints on our website and I've considered this while deciding Mrs B's complaint.

I note that NewDay didn't actually give Mrs B the first credit card but bought the account in the following year. However, it seems that NewDay accepts that we can look at the decision to lend as it has referred to the lack of information for this application due to the passage of time, rather than explaining to us that they aren't liable for this part of the complaint. So, I will be looking at all three lending decisions in my decision.

The rules and regulations at the time of each application required a reasonable and proportionate assessment of whether Mrs B could afford to repay what she 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 consideration was needed on whether Mrs B repaying the credit sustainably would cause her difficulties or adverse consequences for her.

In practice this meant that NewDay had to ensure that making the payments wouldn't cause Mrs B 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 Mrs B. Checks also had to be "proportionate" to the specific circumstances of the credit card 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 have 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 looking at the decisions to give Mrs B the three credit cards.

The initial credit card application in 2013

NewDay says that they no longer have copies of this application or the checks that were carried out before Mrs B was given the card. This isn't necessarily surprising due to the passage of time since the application and considering that businesses generally aren't required to keep records indefinitely and mostly only do for six years or so.

This obviously presents some difficulties in determining whether a proportionate check was carried out at the time. Our adjudicator looked at some bank statements for an account held by Mrs B to help determine what her financial situation likely was. That of course can only go so far in determining whether anything looked concerning when Mrs B applied for the card. I've looked at those bank statements and there doesn't appear to be anything of particular concern that showed Mrs B was struggling financially at the time. Bearing in mind this was the first time Mrs B applied for a card with this particular business, and the limit given was relatively low, and also bearing in mind I haven't seen anything else that would likely have caused concern about the application, I don't think it was unreasonable for the credit card to have been given to Mrs B.

The second credit card application in February 2015

NewDay says that Mrs B declared her net monthly income to be £2,400 and that she had access to her partner's income. They say also that they carried out a credit check which showed nothing of concern.

I've seen a copy of the information NewDay relied on including the credit check. The credit check showed that there wasn't any indication that Mrs B was in arrears on her existing credit accounts or that any of these had been defaulted. So there doesn't appear to be any particular concerns that Mrs B was struggling to repay her existing credit commitments.

I've also considered Mrs B's account management of her first credit card as this might have provided some indication that she wasn't in a position to take on more credit. I note that there were a few missed payments in the early part of 2014. That in itself isn't an indicator of financial stress, although it of course *could* be an indicator. I haven't though seen any particular problems with repayment in the six months leading up to the second card application.

The expectation for providing Mrs B with the credit facility was that she would repay what she'd borrowed plus the interest due within a reasonable period of time. That isn't defined as such and will depend on the circumstances of each case. That said, I think that Mrs B's self-declared income together with there not being anything of concern on her credit file (which Mrs B accepts was true) and the account management of her existing card leads me to think that it was reasonable and proportionate for NewDay to provide Mrs B with a credit limit of £1,000.

The third credit card application in December 2015

NewDay says that Mrs B declared her annual income to be £25,000 and that she again confirmed that she had access to her partner's income. They also again say that they carried out a credit check which showed nothing of concern.

I've seen a copy of the information NewDay relied on and, as far as the credit check, there was again nothing of concern shown. There were no defaults or arrears on her existing credit commitments. At this stage, Mrs B had been given total credit limits of £3,000 across each of her cards. So, consideration must be given to that here as Mrs B had by now in effect tripled her total credit limit across all three cards.

However, I've not seen any indication that Mrs B was struggling to take on this extra credit. The credit check I've mentioned is part of that. And there doesn't seem to have been any indication that Mrs B was struggling to repay her existing credit limits with the other two cards. That of course doesn't mean that it was automatically appropriate to give Mrs B further access to credit. But I've seen that Mrs B wasn't simply paying minimum payments on her existing cards. There were some months where she paid off the full balance and some where she paid above the minimum payment. Taking this and the information that NewDay considered into account, I think that it was reasonable and proportionate for NewDay to agree to this credit card application.

So, for the reasons I've given above, I do not uphold Mrs B's complaint about the decision to give her the three credit cards.

I realise that Mrs B has said that she suffers from a spending addiction and that this has been exacerbated by the decisions to give her three credit cards. However, I don't think there were any indicators from the checks that NewDay carried out and the information they saw in 2015 (and those that may have been carried out in 2013) that this was apparent.

I also haven't seen that Mrs B made NewDay aware of her condition which might have prompted them to act sooner or differently. It seems more likely to me that Mrs B's situation changed when she was made unemployed in 2018 and wasn't then able to meet her repayments.

It also looks like, judging from the account statements for all three cards, that NewDay agreed to put a repayment plan in place and for interest to be stopped once Mrs B made them aware of her situation. So, I think NewDay acted fairly here and treated Mrs B's situation positively and sympathetically.

Finally, NewDay has offered Mrs B £50 for not investigating her complaint properly. I will leave it to Mrs B to decide whether she chooses to accept this, although I would add here that NewDay should stand by this offer.

My final decision

For the reasons I've given, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 1 May 2021.

Dan Picken
ombudsman