

complaint

Mrs W complains that NewDay Ltd acted irresponsibly in giving her a credit card and then increasing its limit twice within nine months.

background

I issued my provisional decision on this case on 20 December 2018. A copy of it is attached and it forms part of this final decision. The full background to the complaint is set out in my provisional decision and as such I won't reiterate it here.

In my provisional decision I explained why I was planning to uphold the complaint in part and ask NewDay to refund some interest and charges with the addition of 8% interest. I asked Mrs W and NewDay to let me know if there was anything else they wanted me to consider.

NewDay said it agreed to refund the charges and interest but pointed out that the account had been placed on hold since June 2016 and no interest or charges had been applied from that date. It calculated the amount Mrs W had incurred for the months after the credit limit was increased to £1,050 and up to the point the account was placed on hold and agreed to pay the sum of £88.59.

Mrs W asked if the redress including the refund of her cash advance fees. But when she was told it didn't she said she accepted the findings.

my findings

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

NewDay has said that – after the credit limit was increased – interest and charges were only applied for two months before a hold was placed on the account. So I've looked at the statements. And these indicate that NewDay's calculation about the amount of charges and interest applied to the account after the increase in the limit is correct. But I can't see that NewDay has taken into account the simple interest I asked it to add to this figure from the date the charges and interest were applied to the date of settlement.

So in addition to the refund of interest and charges, I require NewDay to recalculate the redress, in line with what I said in my provisional decision. It should provide a full breakdown to Mrs W of how it arrived at the final figure.

But overall, I see no reason to change my provisional findings. I'm therefore upholding Mrs W's complaint in part for the same reasons given in my provisional decision.

my final decision

I uphold Mrs W's complaint against NewDay Ltd in part and require it to:

- refund the interest and any charges incurred on any balance above £450 after it increased the card limit to £1,050;
- pay Mrs W simple interest* of 8% per year from the date the charges were incurred to the date of settlement.

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

NewDay should also provide Mrs W with a full breakdown of how it calculated the redress.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 1 March 2019.

Keith Lawrence
ombudsman

copy of provisional decision

complaint

Mrs W complains that NewDay Ltd acted irresponsibly in giving her a credit card and then increasing its limit twice within nine months.

background

Mrs W opened a Marbles credit card account with NewDay in June 2015 and was given a credit limit of £250. In October the credit limit was raised to £450. And in December 2015 Mrs W requested another increase but this was declined. However, in March 2016, NewDay offered Mrs W an increase to £1,050. Mrs W continued to make some payments to NewDay but was issued with a notice in July 2016 advising her of two missed payments. She agreed a payment plan and no further interest and charges were applied. Other notices were issued for missed payments in September and November 2016 and January and March 2017.

By April 2017 Mrs W had engaged a debt management company to deal with her outstanding debts after which she paid off the outstanding card balance with NewDay.

Mrs W complained that NewDay had acted irresponsibly in giving her the credit card. And in offering increases to her card limit. She said she had lots of debt at the time of her application, was suffering with mental health issues and had a gambling addiction. She also said NewDay was the only creditor who wouldn't accept a lower settlement figure from the third party who arranged her debt management plan.

NewDay didn't agree and said it offered credit based on the checks it carried out as well as what it knew about Mrs C at the time. It said it believed it had lent responsibly. One of our investigators looked into the complaint and thought NewDay acted reasonably in giving Mrs W the credit card and by giving the credit limit increases. She also said NewDay wasn't obliged to accept any offer of settlement that may have been put to it by a third party on Mrs W's behalf.

Mrs W didn't agree. She said she had over £50,000 of debt when she took out the card and many of the repayments she made were from the proceeds of her gambling. As a resolution couldn't be found the case has been passed to me for a decision.

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.

The *UK cards- best practices for credit card limit increases guidance* says that card issuers "*should take an active approach to ensure responsible lending*". But I should explain that there isn't a list of specific checks a lender should do when deciding whether to give credit. That said, I would expect a lender to carry out checks which are proportionate to the amount of credit being offered. Typical checks can include (but are not limited to) information obtained from credit reference agencies and other factors such as asking about the consumer's income and outgoings, any credit history with it and the lenders own internal credit scoring.

In this case, looking at what information NewDay considered, I don't think its decision to lend the initial line of credit was irresponsible. I think the checks were proportionate to the amount borrowed. Looking at Mrs W's credit card application I can see NewDay asked about her income and the amount of unsecured lending she held. I've also seen the monthly statements for another card Mrs W held with NewDay, and I don't think the management of that card showed that NewDay shouldn't have lent further – especially as it has pointed out that it often provides credit to people who might not otherwise get a credit card.

So I can't say that NewDay should have declined the initial application.

I'm also satisfied that NewDay carried out proportionate checks before it increased the limit in October 2015. This was a relatively small increase which might have given Mrs W the chance to manage her credit better and not incur over limit fees. The month before the increase she'd made a payment greater than the minimum required. And NewDay has provided information it obtained from the credit reference agencies which suggests she didn't have any arrears, defaults or delinquent debts. So I think NewDay acted fairly in offering Mrs W a higher limit at this point.

But I don't think that was the case with the final increase. This time the increase was over £500 more than she'd previously had. And after the October 2015 increase Mrs W immediately exhausted the new amount of credit she'd been given. And over the next four months she generally made only minimum payments and incurred three default fees and a number of cash advance fees. Indeed NewDay rejected her application for another increase in December 2015 because of the account management. So I'm not satisfied Mrs W was managing well with the £450 new credit limit to the extent that NewDay should have provided more credit at that time.

I can see NewDay increased Mrs W's credit limit the month after she'd managed to pay off most of the outstanding balance on the card. But I don't think that was sufficient reason for NewDay to give another increase.

The UK cards- best practice guidance also says of "*Unsolicited Credit Limit Increases – Risk Indicators.....potential examples include evidence of*"

- *paying the minimum payment over an extended period*
- *a significant increase in overall outstanding balances over time*
- *instances of exceeding credit limits*
- *making use of cash advances*

I think these signs, which were all evident on Mrs W's account by this time, were things that NewDay should have noted when it reviewed Mrs W's account before offering further increases. I don't think it was responsible for NewDay to have based its decision to lend further, on Mrs W's ability to repay her outstanding card balance on one occasion.

Mrs W has said she made the payment as a result of money she won from gambling. She's also said at that time she was suffering from mental health issues, a gambling addiction and was on maternity leave from her job. And it's clear from the credit card statements that most of the transactions were related to gambling sites. Although we wouldn't expect NewDay to look at Mrs W's statements in detail or tell her what to spend her money on – if it had carried out proportionate enquiries before it increased the limit by over £500, I think it would have learnt of the challenges Mrs W faced in repaying her debts and that she wasn't in a position to take on more credit and so it wouldn't have lent to her. So I think New Day needs to do something to put things right here.

I note Mrs W has asked why NewDay were the only one of her creditors not to accept a reduced payment from her when she wanted to settle her debts using a third party. When a consumer is in financial hardship a lender is required to treat those circumstances positively and sympathetically. But that doesn't mean it's required to accept a reduced settlement. The lender can consider a range of options which could include reducing/suspending interest or accepting lower monthly payments for example. So although I've said that NewDay didn't act responsibly when it increased Mrs W's card limit for the third time, I don't think it's for me to tell NewDay what it should accept in settlement of an outstanding debt. That's entirely a matter for NewDay to consider. I understand that Mrs W has since repaid the credit card so I won't be asking NewDay to take any further action here.

my provisional decision

For these reasons, my provisional decision is that I uphold Mrs W's complaint in part, and that NewDay Limited should:

- refund the interest and any charges incurred on any balance above £450 after it increased the card limit to £1,050.
- pay Mrs W simple interest* of 8% per year from the date the charges were incurred to the date of settlement.

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

Keith Lawrence
ombudsman