

The complaint

Miss F says NewDay Ltd irresponsibly lent to her.

What happened

Miss F took out a credit card from NewDay in November 2018. She was given a £450 limit. This was increased five times to reach £5,600 in October 2021.

Miss F says if NewDay had properly checked her credit record it would have seen late payments, defaults and multiple new lines of credit. This should have warned NewDay she was struggling with her finances.

NewDay said it carried out proportionate checks at the time of each lending decision and they showed Miss F could afford the credit.

Our investigator did not uphold Miss F's complaint as she found the lending was not irresponsible.

Miss F disagreed and asked for an ombudsman's review. She pointed out the income listed was not correct as it included payments from her partner to help with her finances. She asked how could NewDay increase her limit by over £5,000 in three years when her salary hadn't changed.

I reached a different conclusion to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to send any comments by 1 October 2024.

Extract from my provisional decision

Card application and initial limit of £450

I can see when Miss F applied NewDay considered her declared income, her total level of borrowing held elsewhere and her repayment history. Whilst I think these checks were initially reasonable, I think NewDay needed to do more based on the information it gathered. I'll explain why.

It learnt Miss F's annual salary was £26,000 and that she had £14,200 of unsecured debt. This means she was already spending around 40% of her income on her current credit commitments. And as her income was relatively low, and it seems unverified, I think NewDay needed to complete a fuller financial review before lending to Miss F. I appreciate the limit it offered was modest, but it was still obliged to check that repaying this new debt would not cause Miss F financial harm.

In cases like this we look at bank statements from the three months prior to the application. I am not saying NewDay had to do exactly that but it is a reliable way for me to know what better checks would most likely have shown NewDay. And I think had it checked her income and expenditure it would have seen Miss F could not sustainably take on any more credit. I

say this as she was persistently reliant on her overdraft – even on payday. She was not using the facility for short term support as intended. She was clearly under financial strain with returned direct debits and overdraft fees. She would have had to use her overdraft facility to repay this debt (her account was never in credit) and so she would in essence be borrowing to repay.

I think NewDay, as a responsible lender, would therefore not have opened the account for Miss F had it completed proportionate checks. It follows I find all subsequent limit increases were wrong.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Miss F in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

I then set out what NewDay would need to do to put things rights. Both parties responded before the deadline. NewDay accepted my findings and conclusion, as did Miss F.

What I've decided – and why

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

Our approach to unaffordable/irresponsible lending - including all the relevant rules, guidance and good industry practice - is set out on our website and I have followed it here.

As neither party sent in any comments or new information for me to consider I have no reason to change the findings or conclusion I set out in my provisional decision.

It follows I find NewDay was wrong to offer any credit to Miss F.

Putting things right

As NewDay should not have opened the account for Miss F, I don't think it's fair for it to have applied interest or charges to the balance. It is reasonable for Miss F to repay the capital she borrowed as she had the benefit of that money.

So NewDay should:

- Rework the account removing all interest, fees, charges and insurances (not already refunded).
- If the rework results in a credit balance, this should be refunded to Miss F along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement.
- Or, if after the rework there remains an outstanding capital balance NewDay should arrange an affordable repayment plan with Miss F for the remaining amount if needed.
- Once Miss F has cleared the outstanding balance, any adverse information in relation to the account should be removed from her credit file.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Miss F a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

I am upholding Miss F's complaint. NewDay Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 21 October 2024.

Rebecca Connelley
Ombudsman