

The complaint

Mr H complains that NewDay Ltd, trading as Aqua, was irresponsible when it gave him his credit cards.

What happened

Mr H successfully applied for a credit card with NewDay in 2013 with a credit limit of £250. Later that year his credit limit increased to £1,050. In August 2016, Mr H applied for another card with NewDay and was given a new card with a limit of £250.

Mr H has recently complained that both these cards were unaffordable for him at the time. He says it has led to his financial difficulties getting worse.

Our investigator explained we couldn't investigate Mr H's complaint about the card and credit limit increase in 2013 as he'd made the complaint too late. She explained NewDay hadn't consented to us considering this complaint and it had been more than six years since the events took place. She also explained that as Mr H had gone over his limit multiple times and had a notice of default on the card in 2014, he ought to have reasonably been aware that he had cause for complaint around this time. So, the investigator explained this wasn't something this service could consider.

Our investigator did think NewDay had been irresponsible when giving Mr H his second credit card with a limit of £250. She said that whilst the limit was low, Mr H's history of managing his other account suggests he wasn't in a position to take on further lending at that time. She said that in the six months before his application he'd been over his limit three times on his first card, and made a large proportion of cash withdrawals, incurring large fees. She felt this, along with him having an account in arrears, meant NewDay shouldn't have given him further lending. So, she recommended it refund the interest and charges applied to Mr H's second card with NewDay and remove any information from his credit file about that card.

NewDay disagreed. It said Mr H's credit file wouldn't have reflected his recent activity where he went over his limit. Also it explained it is a second chance lender, and the low credit limit of £250 was affordable as the application satisfied its lending criteria. So the complaint has been passed to me to reach a decision.

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.

Having done so, I agree with the investigator for similar reasons. I'll explain why.

2013 credit card and increase

The rules under which this service operates can be found in the Financial Conduct Authority Handbook under DISP. These say that unless a business consents, or there are exceptional

circumstances, we can't consider a complaint that has been brought more than six years after the event complained about or, if later, more than three years since the consumer was aware, or ought reasonably to have been aware, of cause for complaint.

In this case, Mr H applied for his credit card in 2013 and his limit was increased in the same year. He didn't complain until 2020 which is more than six years since the event happened. Mr H's complaint is that the lending was unaffordable for him. I can see he was issued a notice of default in 2014 which I think would've made him aware that his credit card may have been unaffordable for him. That was more than three years ago so I think he's complained too late about this credit card and limit increase. As NewDay hasn't consented to us looking at this complaint, and Mr H hasn't told us about any exceptional circumstances I can't consider this complaint point.

2016 credit card

I can consider whether Mr H's credit card from NewDay he was given in 2016 was affordable for him.

When someone complains about irresponsible and/or unaffordable lending, I need to consider whether the lender completed reasonable and proportionate checks to satisfy them the lending was affordable, and whether it was sustainable. Where those checks were carried out, I need to consider if the lending decision was fair. And if they weren't carried out, I need to consider if the increases would've been approved had the checks taken place.

There's no set list for what reasonable and proportional checks are, but I'd expect lenders to consider things such as the amount of the credit limit being applied for; and Mr H's personal circumstances at the time of application.

When Mr H applied for the card he told NewDay he had an income of around £13,000 and lived with his parents. NewDay ran a credit check and saw he had one account in arrears but hadn't had any recent payday loans. It decided that Mr H's circumstances met its affordability criteria. I've considered this, but I don't think NewDay carried out proportionate checks on this occasion.

NewDay has asserted that it only gave Mr H a low credit limit of £250, and that this was affordable when it looked at its criteria. However, it doesn't appear to have taken into account Mr H's conduct on his other card with NewDay. Mr H was already a customer of NewDay with a credit limit of £1,050. So whilst this new credit card was for £250, it brings his total lending with NewDay to £1,300. So, it was important to consider how Mr H managed his other NewDay card when he applied for this credit card.

I can see Mr H was over his limit three times in the six months before his application. He'd relied on his credit card to withdraw cash a number of times incurring large fees that it appears he couldn't afford given he'd frequently been over his limit. Mr H also had an existing debt that was in arrears at the time he applied. NewDay has said his credit file wouldn't have shown that he'd been over his limit as he'd rectified it. But Mr H was over his limit on a card he had with NewDay. And I'd expect NewDay to review the way he managed his account he already had with it before agreeing to lend him more. I can't see that it did that here.

I understand that the new card fell within NewDay's affordability criteria. But, looking at the picture as a whole, I don't think this was a responsible lending decision. This is because NewDay lent more money to Mr H who already had over £1,000 of debt with it. That credit card had been over its limit in the months before his new application which he incurred a lot of fees and charges on, and it was defaulted. Mr H also had one account in arrears at the

time. I think if NewDay had looked at the way Mr H handled his other credit card he had with it, I don't think it would've, or should've given him additional lending.

Putting things right

NewDay shouldn't have given Mr H his credit card in 2016. So, it should now refund all interest and charges applied to the card. As Mr H's card has been repaid in full NewDay should add 8% interest to the refund from the date the card was closed to the date of settlement. NewDay should also remove any reference to this credit card on Mr H's credit file.

My final decision

For the reasons I've explained, I uphold this complaint. NewDay Ltd, trading as Aqua, must follow the instructions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 21 January 2021.

Charlotte Wilson
Ombudsman