

The complaint

Ms G has complained that NewDay Ltd trading as Aqua (NewDay) provided her with a credit card when they shouldn't have done. She believes that her financial position wasn't strong enough to support the debt and that NewDay's decision to lend to her was irresponsible.

What happened

Ms G applied for an "Aqua" credit card with NewDay in January 2018. Based upon the information in her application, a card was agreed with an initial limit of £450.

Ms G made her first monthly repayments on time and the amounts paid were for more than the minimum required under the agreement. But, by the middle of 2018, Ms G began to make payments later than the due date. Because of this, NewDay applied late payment fees.

NewDay sent letters to Ms G in May and June 2018 to highlight the late and missed payments. These letters also said that they had stopped her using her card until the situation was put right. Ms G called NewDay the day after the date of the June letter.

During the call, Ms G explained that she had not received her wages. NewDay recorded this as a temporary issue. NewDay suggested that she set up a direct debit so that she did not miss future payments and save on any charges. Ms G declined because her wages were paid weekly. Ms G had already made a payment of £25 and told NewDay that she had now made a further payment of £20.

Ms G's card balance was over the limit agreed of £450 because of the late payment charges. This meant that a further fee was charged. NewDay sent another letter to Ms G in July 2018 about the charges.

Ms G made no further payments to reduce the balance after those made in June 2018. So, NewDay wrote to Ms G again in August 2018. As they hadn't received a reply, NewDay suspended Ms G's account. She was told about this on her September 2018 statement. At the same time, NewDay sent a "*Notice of Sums in Arrears*" and included with this an Information Sheet produced by the Financial Conduct Authority (FCA) with advice and guidance.

Another statement was sent to Ms G in October which showed further interest and charges in line with the card agreement. There is no record that Ms G contacted NewDay after any of these letters had been sent. So, NewDay made the decision to stop further charges and transferred management of the outstanding debt to a debt collection agency in October 2018.

Ms G contacted NewDay in January 2020 with her complaint. NewDay didn't agree that they had acted irresponsibly when agreeing to give Ms G an account and card. Ms G was unhappy with this outcome so decided to refer her complaint to this service.

The complaint has been looked at by one of our investigators. She did not agree that NewDay had been irresponsible in agreeing to lend to Ms G. But she did think that NewDay

should have acted sooner to provide support to Ms G. She thought that NewDay should have taken further steps to understand Ms G's circumstances following her call in June 2018. Because of this, our investigator thought that NewDay had not acted fairly. She said that NewDay should refund the interest and charges applied following Ms G's phone call to them in June 2018.

NewDay did not accept our investigator's view so asked for the complaint to be passed to an ombudsman for a final decision.

I reached a different outcome to that of our investigator. Because of that, I issued a provisional decision on 4 February 2021. I explained why I thought that NewDay didn't need to do anything more here.

Neither Ms G or Newday have provided any further information or evidence following my provisional decision, so the case has been passed to me to reach a final 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.

I think there are two clear parts to this complaint for me to consider:

- Was NewDay's decision to provide Ms G with a credit card account and the agreed limit reasonable and responsible based upon the information that they had?
- Was NewDay's response to Ms G's financial difficulties appropriate?

I have looked at the application information that Ms G provided to NewDay when she first applied for her card in January 2018.

Ms G's application says that she was employed and receiving an income at a level that would support borrowing at the level agreed. NewDay also completed some checks with credit reference agencies. This is normal for this kind of application. Although this showed that Ms G had defaults previously, there was no evidence to suggest that Ms G had any bad debt or default history for a period of 18 months before her application.

NewDay have said that this falls within their policy as a "second chance lender" that offers lending to people who have been rejected by other 'high street' lenders. NewDay is entitled to decide who they lend to and, if they want to accept the risk of lending to people that other business may not lend to, they are free to decide that. But that doesn't mean that they don't have the same obligations as other lenders to perform borrower focused assessments that any lending they provide is affordable and sustainable.

Here NewDay have explained that the application was accepted with a low initial limit. This would allow Ms G to build a track record with them before they would consider increasing this further. The relatively small level of borrowing NewDay made available to Ms G means that I think that the checks they did – including taking the information Ms G provided in good faith and double-checking credit reference information – were proportionate here. It is also clear that at no time did NewDay increase the limit available to Ms G. So, I agree with our investigator and don't believe that NewDay were acting irresponsibly when they agreed to lend to Ms G.

So then I've looked at how NewDay have treated Ms G's financial difficulties. During the first month that she used the card, a large proportion of the available limit was used. Ms G then repaid a large proportion of this amount owed at least a week before the due payment date.

The following month, Ms G exceeded the limit available to her. As a result, a charge was made and NewDay also sent a letter so that this was clear to her. Ms G made a payment, on time, which exceeded the minimum required. She continued to use the card until her late payments in May and June. On each occasion, NewDay wrote to Ms G to explain the charges and provide contact details.

In June 2018, Ms G called NewDay to discuss the situation. NewDay have provided their notes from that conversation. It appears that Ms G told them that she had not received her wages yet and that this had led to her late payment. There is no evidence to suggest that Ms G had any other wider financial problems at that time. If this had been the case, Ms G had an opportunity to tell NewDay at this point. NewDay also suggested that Ms G could set up a direct debit for her monthly payments. I think this was a sensible suggestion as this would help her to avoid further late payment fees. Ms G didn't want this because she was paid weekly. I can see nothing from the information available to NewDay that would suggest that there was a more serious underlying problem. I believe that they acted upon the information provided to them from Ms G and did so in a positive, proportionate way.

Ms G made no further payments to her card account from July onwards. So, NewDay wrote to her again clearly explaining the situation and providing guidance, in case Ms G could not pay. They wrote to her on two occasions. Ms G didn't reply so NewDay suspended her account at the beginning of September and sent notices of arrears. They also included an information sheet from the FCA. This provided clear advice on what to do if you receive an arrears notice. It also provided details of where Ms G could get help and advice from. I think this was the right thing to do. Particularly if Ms G was having wider financial difficulties with other lenders and didn't know what to do next. That is what I'd expect to see a lender do in a situation like this.

Unfortunately, there is no record that Ms G contacted NewDay, despite the letters, statements and advice that NewDay had sent. As a result, NewDay made the decision to stop applying interest and charges in October 2018 and transferred management of Ms G's account to a debt collection agency. I think this was a fair thing to do as although it will have had a severe impact on Ms G's credit file, transferring a debt in this way will often result in the interest and charges being suspended – allowing a borrower to pay off what they owe, without this increasing further.

In reaching my decision, I need to be fair to both parties. I think that NewDay took appropriate actions based upon the information given to them. When Ms G contacted NewDay they discussed the situation with her in a helpful way. But what she told them meant that they thought the problem was only a temporary one. But after June 2018, Ms G didn't get in touch with NewDay again and so, in the absence of payments, all they could do was to take further action to try and recover the debt in the way they did. I don't think they did so unfairly in the circumstances.

Ms G has not specifically complained about the way that NewDay have handled the default. Because of this and in the absence of any further evidence, I think that NewDay acted in a timely, fair way here and I don't think they needed to do anything different or sooner here.

Neither Ms G or NewDay have provided any new information or evidence following my provisional decision of 4 February 2021. That means that I have no reason to depart from the findings I reached in this. So, my decision remains the same.

My final decision

As set out above, I am not upholding Ms G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 6 April 2021.

Dave Morgan
Ombudsman