

The complaint

Miss F is unhappy that NewDay Ltd, trading as Aqua loans, approved her for a credit account which wasn't affordable for her at that time, and also that they didn't recognise that she was experiencing financial difficulties during the time that she was using the credit account or respond appropriately.

What happened

Miss F applied for a credit account with NewDay in September 2016 and was approved for a card with a credit limit of £300. Miss F quickly took the account over the agreed credit limit and the account was regularly over the agreed credit limit for the next nine months.

In June 2017, Miss F told NewDay that she was struggling to meet her priority bills and NewDay put a block on her account to prevent the outstanding balancing increasing because of this. NewDay also sent Miss F an income and expenditure questionnaire to get a better understanding of what Miss F could afford to pay.

In July 2017, NewDay and Miss F agreed to a temporary payment arrangement whereby Miss F would pay £34 per month over five months in order to bring the account back under the approved credit limit. Miss F followed this payment arrangement and when the payment plan ended in November 2017 the account balance had been brought back under £300.

Miss F made two more payments to the account – in December 2017 and January 2018 – but no further payments. As a result, the account fell into arrears, entered NewDay's collections procedure, and was ultimately defaulted by NewDay in September 2018.

In June 2020, Miss F sent a complaint to NewDay. The complaint stated that Miss F believed that NewDay shouldn't have approved her for a credit account because the account was unaffordable for her at that time. The complaint also stated that Miss F believed that NewDay hadn't taken due consideration of the financial difficulties that she had experienced while she was using the account.

Miss F received a response from NewDay advising her that she had sent the complaint email to the loans department rather than the credit card department and which suggested that Miss F contact NewDay by telephone or webchat to raise her complaint. Miss F wasn't satisfied with this response, so she referred her complaint to this service.

This service contacted NewDay and advised them of Miss F's complaint and asked them to respond. NewDay looked at the complaint, but they felt that credit account had been affordable for Miss F at the time of the application, and that they had taken steps to help Miss F when they became aware of her financial difficulties. So, they didn't uphold the complaint.

Miss F confirmed that she would like her complaint to be reviewed by this service, so one of our investigators looked at the complaint. They felt that the credit account had been affordable for Miss F at the time of application.

Our investigator also felt that NewDay had acted positively and sympathetically to Miss F's financial difficulties when agreeing the payment plan in July 2018. But they were concerned that NewDay hadn't contacted Miss F when the payment plan had finished to confirm whether she was still experiencing financial difficulties. So, they partially upheld the complaint on this basis.

NewDay didn't agree with the view put forward by our investigator, so the matter was escalated to an ombudsman for 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 issued a provisional decision on this case on 17 March 2021, as follows:

It's for a business to decide whether it will offer credit to someone, and if so, how much and on what terms. What we'd expect is that the credit provider carries out reasonable and proportionate checks as to the affordability of any credit being offered. And I think that NewDay has done that here. They took details of Miss F's income and they checked her credit file.

I note that Miss F's credit file at the time of the credit application did include a default recorded in February 2015 as well as an amount of existing debt, but even taking this into account I'm satisfied that the credit account that she was approved for, with a relatively small credit limit of £300, did appear affordable for her at that time.

Following the approval of the credit account in September 2016 it's notable that Miss F quickly took the account over the agreed credit limit and that the account was regularly over the limit up until the time that Miss F informed NewDay that she was struggling financially in June 2017.

However, it's also notable that on most occasions Miss F was able to make monthly payments to bring the account back under the credit limit, and it was a feature of the account that the credit card couldn't be used by Miss F when she was over the credit limit, which meant that it was never the case during these months that the outstanding balance exceeded the credit limit by more than £25.

Additionally, I can see that Miss F spoke with NewDay on several occasions before June 2017 regarding the status of her account and the reasons why she had exceeded the credit limit, and I can see that NewDay reimbursed charges to Miss F on two occasions following these conversations. And I can't see that Miss F mentions anything to NewDay during these calls that should have given NewDay cause to think that Miss F might not be able to manage the credit account moving forwards.

But in June 2016 Miss F did inform NewDay that she was experiencing financial difficulties and that she was struggling to pay her priority debts. When a customer tells a business that they are in financial difficulty it would be expected by this service that the business reacts with a degree of sympathy and takes positive steps to help the customer through the difficult time they are facing.

And I think that NewDay did that here. They placed an immediate hold on the account to prevent the outstanding balance from increasing further and they sent Miss F an income and expenditure questionnaire to help them get a better understanding of Miss F's financial situation.

Miss F spoke with NewDay again in July 2017 and said that she believed that these financial difficulties would be temporary. And on this basis NewDay agreed an informal temporary payment plan that wouldn't be recorded on Miss F's credit file and which involved Miss F making payments of £34 per month for five months to bring the balance of the account down to a reasonable level.

This gave Miss F the opportunity to return her account to a usable position without having a record of the payment plan on her credit file, and I consider this to be a positive and sympathetic response from NewDay. And it must be noted that Miss F made the five agreed payments without incident.

Our investigator partially upheld this complaint because they felt that NewDay should have contacted Miss F at the end of the payment plan to confirm whether she was still in financial difficulties at that time. However, I don't feel that it's fair to have expected NewDay to have done this, and I say this because Miss F had informed NewDay that she expected her financial difficulties to be temporary and had agreed a payment plan that was itself temporary, and also because she hadn't missed any of the five agreed payments in the payment plan that NewDay had agreed with her.

So, given that Miss F completed the temporary payment plan without incident and brought the balance of the account below the credit limit, it seems reasonable to me that NewDay would have allowed her to use the credit account again. And if Miss F was still experiencing financial difficulties at that time, she could have contacted NewDay to advise them of this.

But I haven't seen anything to confirm that Miss F did contact NewDay again. And after making two further payments to the account in December 2017 and January 2018, Miss F stopped making payments. This meant that the account went into arrears and entered NewDay's collection process, and the account was ultimately defaulted by NewDay in September 2018. And considering what I have outlined above, it's difficult for me to find any reason to consider that this was inappropriate.

All of which means that it's difficult for me to conclude that NewDay have acted unfairly or unreasonably here, and it follows that my provisional decision will be that I won't be upholding this complaint or asking NewDay to take any further action at this time.

I'm aware that NewDay have offered Miss F a payment of £50 in regard to how they initially responded to Miss F's complaint, but I consider that to be separate to this review and so it wouldn't be expected that that offer would be affected by the provisional decision I have reached here.

I understand that this won't be the outcome that Miss F was wanting, but I hope that she can understand, considering everything I have explained, why I have reached the provisional decision that I have.

In my provisional decision letter I have both Miss F and NewDay until 16 April 2021 to provide any further comments or information that they wished me to consider before moving to a final decision. NewDay confirmed they were in agreement with my final decision. Miss F did not respond.

It follows that I see no reason not to issue my final decision on the basis outlined in my provisional decision above, and this means that my final decision will be that I do not uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 18 May 2021.

Paul Cooper
Ombudsman