

The complaint

Ms M complains that NewDay Ltd (Newday) lent to her irresponsibly and shouldn't have suspended her Aqua card in November 2020.

What happened

Ms M applied for an Aqua card in January 2014 and was given a limit of £250. Then, increases were agreed on the Aqua card, and an Amazon card was also issued as follows:

Date	Limit
January 2014	£250
July 2015	£500
January 2016	£1,000
August 2016	£1,750
October 2018	£2,650
October 2018 – Amazon Card	£500

Ms M complained that she shouldn't have been given the increases in limit. And in November 2020, Newday cancelled her card – even though she wasn't in financial difficulty.

Newday said Ms M passed all their credit checks. Ms M told them in January 2014 that she was earning £27,500 per annum, with other debts of £2,500. The last default was 44 months previously. On the increase to £500 in July 2015, there had been late and over limit fees, but not in the last six months. Repayments were being made. On the increase to £1,000 in January 2016, there had been only two late payment charges in the last six months. On the increase to £1,750 in August 2016, there had been one (refunded) late payment fee. On the final increase to £2,650 in October 2018, there had been fees charged but they were within policy for an offer of an increased limit. Ms M accepted the offered increases – and didn't opt out, as she could have. Newday said the accounts had been closed as part of their complaint process. When she applied for the Amazon card in October 2018, she declared income of £26,780 and unsecured debts of £11,400. The most recent default was 48 months before.

Ms M brought her complaint to us. Our investigator said she thought the issue of the card in

January 2014 was OK, but the increases after that were irresponsible. There had been late and over limit fees each time. And by the time Ms M applied for the Amazon card in October 2018, there were other external debts of over £11,000. So – Newday should've made more inquiries before increasing their lending. She said the suspension of Ms M's Aqua card was OK.

Newday disagreed, they said that there were fees charged in 2014 – but not in the months leading up to the increase in June 2015. There were no indications of other debt problems either. For this and all other increases, she met Newday's lending criteria, including a regular income. They asked that an ombudsman look at Ms M's complaint.

I reached a provisional decision where I said:

I disagree with our investigator's view. I think that the increases in July 2015, January 2016 and August 2016 were OK, but the final increase to £2,650 in October 2018, and the issue of the Amazon card shouldn't have been agreed. I will explain why I think that's the case.

All lenders have an obligation to lend money responsibly. We must check whether Newday acted in line within the Financial Conduct's (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments, as well as the risk to the customer of not being able to make repayments.

The first issue of the card in January 2014 – with a modest limit of £250 – was OK. I can see that Ms M said she was earning £27,500 a year, had other debts of only £2,500 and had lived at the same address for 4 years. There weren't any payday loans showing. There was a defaulted loan of £1,500, but that was 44 months before. So that was OK.

Looking at the increase to £500 in July 2015, there were initially problems showing in 2014. There were nine over limit fees – a sign of problems – but these had stopped a good while before - in October 2014. There were some eight late payment fees – also signs of issues - but these stopped in March 2015. Newday had no information about other debts. The new limit of £500 was still a modest one. So – I consider the offered increase in July 2015 was OK.

Looking at the increase to £1,000 in January 2016. There had been just one late payment fee. There was no information about other debt problems. So – that was also OK.

Looking at the increase to £1,750 in August 2016. There was one (refunded) over limit fee. But by now, Newday could see there were other debts elsewhere of £6,822 (in July 2016). But – given that Ms M's Aqua account was being well maintained – payments were being made and borrowing was within the limit - I think that was OK.

However, by the time of the final increase to £2,650 in October 2018, there were more signs of problems. There were seven over limit fees and seven late payment fees in the period since August 2016. Other debts had gone up to £11,915 (in September 2018). So, Ms M was having to borrow more money and taking on a lot of debt. So, on that basis, I think Newday should've – at that time – made more inquiries and asked Miss M questions about what was going on. But they didn't.

It was at that time – October 2018 – that Newday also agreed the Amazon card. Given what they could see on the Aqua card, it didn't make sense either to issue another card with an

additional limit of £500.

I do note though – that Ms M could've declined the offers of the increase but didn't. Newday told us that she proactively accepted them. So, to some extent, Ms M was also responsible for the additional borrowing.

Turning to the suspension of Ms M's card – I can see that by September 2019, there were more, regular late payment fees and over limit fees – and other debts had gone up to £14,606 – so Newday were justified in reducing the limit progressively in September 2019 (£2550), to £2,100 in December 2019. Miss M was clearly in financial difficulty and so Newday were correct in stopping her card. Also, it's within their terms and conditions that they can do this if they wish.

So – as I don't think that in October 2018, Newday should've increased the limit to £2,650 on the Aqua card, or issued the Amazon card with a limit of £500, I think they should:

- Refund all interest and fees charged on the Aqua card for borrowing over £1,750 from October 2018.
- If these refunds result in a credit balance, then pay 8% per annum simple interest on the balance from the date of overpayment to the date of settlement.
- Refund all interest and fees charged on the Amazon card from October 2018.
- If debts still outstanding, agree a mutually agreeable payment schedule with Ms M.
- Remove any adverse credit file entries added since October 2018.

Responses to the provisional decision:

Miss M agreed with the provisional decision, but Newday didn't. They said, in summary:

- Miss M had external debts of £11306 in October 2018 (not £11915)
- The credit reference agency data showed a stable income, had no arrears with other lenders in the last six months of the October 2018 increase or any evidence of financial difficulty or affordability.
- On the Amazon card, the same arguments applied. There weren't any recent defaults showing. There weren't any CCJs.

So – I now need to make 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've considered what Newday have said to us in response to the provisional decision. I quoted the external debt of £11915 – as at September 2018 as I assumed that was the figure that NewDay would've seen when looking at the increase in October 2018 – but the difference of £609 makes no difference – the external debts were still high.

In making a judgement on whether, or not, the lending was irresponsible – this is a balance of all factors that I observed. Against what Newday told us in response to the provisional

decision, I was also equally concerned by the late payment and over limit history of Miss M's account. And the external debts had increased a lot and was high – and I just think that on balance, this warranted some further questions – proportionate to the limit of £2650. And, by the same logic – if the lending in October 2018 on the Aqua card was irresponsible, then to provide a further card (Amazon) at the same time must also be considered irresponsible. It will also be noted that I'm not awarding any compensation payment – which also reflects the balanced decision here.

And so – having considered what Newday have argued, I am issuing a final decision which is the same as the provisional decision, and for the reasons I gave in it.

My final decision

I uphold this complaint. And NewDay Ltd should:

- Refund all interest and fees charged on the Aqua card for borrowing over £1,750 from October 2018.
- If these refunds result in a credit balance, then pay 8% per annum simple interest on the balance from the date of overpayment to the date of settlement.
- Refund all interest and fees charged on the Amazon card from October 2018.
- If debts still outstanding, agree a mutually agreeable payment schedule with Ms M.
- Remove any adverse credit file entries added since October 2018.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 4 October 2021.

Martin Lord
Ombudsman