

## **Complaint**

Mr M has, amongst other things, complained that NewDay Ltd (“NewDay”) irresponsibly provided unaffordable credit to him on two credit cards.

## **Background**

Mr M was provided with an Aqua branded credit card, which had an initial credit limit of £250, in October 2014. The credit limit on this account was increased on three occasions until it reached £2,450.00 in January 2017.

NewDay then provided Mr M with a Marbles branded credit card, which had an initial limit of £300, in September 2017. The credit limit on this account appears to have been increased on two occasions until it reached £1,950.00 in June 2018.

One of our investigators reviewed what Mr M and NewDay had told us. And he thought that NewDay shouldn't have provided the final credit limit increase on the Aqua card or the Marbles card at all. So he partially upheld Mr M's complaint. NewDay didn't respond and so the case was passed to an ombudsman for review.

## **My findings**

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

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mr M's complaint.

Having carefully considered everything provided, I'm partially upholding Mr M's complaint. I'll explain why in a bit more detail.

NewDay needed to make sure that it didn't lend irresponsibly. In practice, what this means is NewDay needed to carry out proportionate checks to be able to understand whether Mr M could afford to repay before providing these credit cards and any limit increases. Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

The Aqua credit card Mr M was initially provided with had a credit limit of around £250. And as this was a credit card NewDay was required to understand whether Mr M could repay £250, plus any interest accrued, within a reasonable period of time.

Mr M was asked to provide a declaration of his income and he stated that it was £10,000.00 a year. I can also see that a credit check was carried out which showed Mr M didn't have too much in the way of existing credit commitments at this time. As this is the case, I'm satisfied that NewDay did do enough to establish that Mr M could repay the full amount due on the credit limits provided in October 2014, February 2015 and August 2016.

I'm also satisfied that what NewDay saw as a result of these checks meant that it was reasonable and proportionate to initially provide Mr M with a credit card in October 2014 and the subsequent increases in February 2015 and August 2016. So I find that NewDay didn't treat Mr M unfairly when it initially provided him with a credit card and increased his credit limit to £1,400.00 in the period between October 2014 and August 2016.

That said, in January 2017 NewDay increased Mr M's limit by a further £1,050.00 taking it to £2,450.00. And this now meant that the amount he could owe plus the interest could account for a substantial proportion of his entire annual income. Equally, it was clear that Mr M's balance hadn't really been reducing and that he'd immediately used up the entire amount of the additional funds available to him as a result of the August 2016 credit limit increase.

In these circumstances, I think that NewDay ought to have been mindful to the possibility that any further credit might have been unsustainable, especially in light of what I've already said about the possibility of the amount owing taking up a significant portion of Mr M's annual salary. It also appears as though that Aqua wasn't Mr M's only creditor at this stage and Mr M was starting to have difficulty sustainably meeting his commitments to some of his other commitments. At this stage, it seems to me that it is more likely than not that any further credit couldn't have been sustainably repaid by Mr M.

So overall and having looked at the information NewDay had available at the time, I'm satisfied that it ought to have realised Mr M couldn't sustainably repay an additional £1,050.00 in January 2017. And so NewDay shouldn't have been provided the credit limit increase it did at this time. Furthermore, as Mr M's circumstances and overall indebtedness worsened by September 2017, it follows that I find that reasonable and proportionate checks ought to have shown NewDay that it shouldn't have provided the Marbles branded credit card at all let alone increased credit limits to £1,950.00.

Mr M went on to and is being expected to pay interest and charges on credit that he shouldn't have been provided with. So I'm satisfied that he has lost out as a result of what NewDay did wrong. And I'm satisfied that NewDay now needs to put things right.

### **Fair compensation – what NewDay needs to do to put things right for Mr M**

Having carefully considered everything, I think that it would be fair and reasonable, in all the circumstances of Mr M's complaint, for NewDay to put things right in the following way:

- rework Mr M's Aqua account to ensure that from January 2017 interest is only charged on the first £1,400.00 outstanding - to reflect the fact that no further credit limit increases should have been provided. All late payment and over limit fees should also be removed;
- rework Mr M's Marbles account to ensure that no interest at all is charged - to reflect the fact that this account should never have been provided in the first place. All late payment and over limit fees should also be removed;
- if an outstanding balance, or balances, remains on Mr M's accounts once all adjustments have been made NewDay should contact Mr M to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on

Mr M's credit file, it should backdate this to when it shouldn't have provided the additional credit in question in the first place;

- if the effect of all adjustments results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr M along with 8% simple interest† on the overpayments from the date they were made until the date of settlement. If no outstanding balance remains on either or both accounts after all adjustments have been made, then Newday should remove any adverse information from Mr M's credit file regarding any affected account or accounts.

† HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Mr M a certificate showing how much tax it has taken off if she asks for one.

### **My final decision**

For the reasons I've explained, I'm upholding Mr M's complaint. NewDay Ltd should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 15 February 2022.

Jeshen Narayanan  
**Ombudsman**