

The complaint

Mrs C says NewDay Ltd, trading as Aqua, irresponsibly lent to her.

What happened

Mrs C applied for a credit card in September 2018. It was approved with a limit of £450 and she was given five subsequent credit limit increases by NewDay – in January 2019 to £1,700, in May 2019 to £3,700, in September 2020 to £4,700, in February 2021 to £6,200 and in May 2021 to £7,950.

Mrs C says NewDay didn't complete affordability checks. Her credit score was poor and she shouldn't have been given this card, or the limit increases some of which were only a few months apart.

Our investigator upheld Mrs C's complaint in part. He found NewDay wasn't initially wrong to have given the card with its £450 limit or to offer the first two limit increases, but all subsequent increases from September 2020 were irresponsible. He said there was evidence Mrs C was struggling financially and that it was unlikely Mrs C would be able to sustainably repay her borrowings.

NewDay disagreed, saying if Mrs C had repaid a large part of her balance in January 2020 by borrowing, how had she also managed to clear a large portion of that new loan by February 2020. The data it has doesn't show other borrowing to fund this. As the September 2020 increase only increased the minimum monthly repayment by £40 its checks were proportionate. And looking at Mrs C's account today shows a significant reduction in balance and that Mrs C has paid more than a minimum monthly repayment each month. Similarly her credit file shows she has managed her accounts well and her financial position hasn't deteriorated so it is without merits to say NewDay's limit increases led to financial difficulties.

As an agreement wasn't reached the complaint was passed to me 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.

Our approach to unaffordable/irresponsible lending - including all the relevant rules, guidance and good industry practice - is set out on our website and I have followed it here.

NewDay is required to lend responsibly. It needed to conduct checks to make sure that the credit facilities it was giving to Mrs C were affordable and sustainable. Such checks need to be proportionate to things like the credit limits it offered Mrs C, how much she had to repay (including interest and charges) each month, her borrowing history with it and what it knew about her. But there is no set list of checks it had to do.

This means to reach my decision I need to consider if NewDay carried out proportionate

checks at the time of Mrs C's card application and each limit increase; if so, did it make fair lending decisions based on the results of its checks; and if not, what better checks would most likely have shown.

The card application

When Mrs C applied for the credit card NewDay asked about her employment and residential status and for details of her gross annual income. It carried out a credit check to understand her credit history and existing credit commitments. NewDay has shared the results of these checks.

They show that Mrs C declared an income of £36,000 and that she had £100 of debt. She had one active account, it was up-to-date and she had no history of defaults. I think these checks were proportionate at the start of the lending relationship and given the limit offered. So I think it was reasonable for NewDay to conclude the card and its repayments would be sustainably affordable for Mrs C. It follows I don't think NewDay was wrong to give Mrs C the card.

The credit limit increases

NewDay has provided the information it based its checks on prior to increasing Mrs C's limit each time. This included how she was using and managing her account and data on her external borrowings from the credit reference agencies. Our investigator found that there was evidence Mrs C was having problems managing her money prior to the September 2020 increase and so none of the subsequent increases should have been given. But that it was not wrong to give the first two credit limit increases in 2019. I think this is a fair conclusion based on Mrs C's spending and payment behaviour and her external borrowings.

I think that by September 2020, when the credit limit increase was up to £4,700 - the third increase in two years and the limit had increased by over £4,000 during this time (over ten times the original amount lent), that NewDay's checks were not proportionate.

There don't appear to have been any updated checks on Mrs C's income and personal circumstances. I understand NewDay has shown they'd considered how Mrs C had handled the account up to the point of the £4,700 increase. But given how much the limit was increasing by, I think it needed to do more to ensure Mrs C was going to be able to sustainably manage the increase. However I won't comment further on this as even based on the checks it carried out I don't think NewDay made a fair lending decision at this stage.

In the 12 months prior to the limit increase, Mrs C's account balance steadily increased to close to the limit twice - Mrs C made a substantial payment to reduce it the first time in January 2020, but the balance then returned to close to the £3,700 limit. Mrs C incurred some late limit fees in the year leading up to the credit limit increase, suggesting she may be having difficulty managing the limit she had. And Mrs C had accrued external consumer credit debts totalling over £13,326 – a significant increase from the £8,291 she had at the time of the previous limit increase, and a vast increase on the £100 she owed when she opened this account. It also knew it had advanced a loan to Mrs C in January 2020 when she repaid a large part of her balance, so it was aware she was already borrowing to repay – not an indicator of sustainability.

So I think NewDay, as a responsible lender, ought to have realised that there were signs that advancing more credit to Mrs C created a risk that she might not be able to sustainably repay her debt in a reasonable time frame.

I have carefully considered the comments it submitted in response to the investigator's

assessment but for the reasons set out above they do not change my conclusion. NewDay argues there is no evidence that its lending caused financial difficulties, but that is not what I need to assess. There could be a number of reasons why an unfair lending decision does not cause consumer detriment, but would still be deemed irresponsible based on what was apparent at the time of the decision to lend. And I find this is the case here.

As I have found NewDay was wrong to increase Mrs C's credit limit in September 2020, and I have not seen evidence that the indicators of her financial health that it relied on when further increasing her limit improved, it follows I find it was wrong to give the subsequent increases in February and May 2021.

Putting things right

NewDay should:

- rework Mrs C's account to ensure that from September 2020 interest is only charged on the first £3,700 outstanding, all late payment and over limit fees should also be removed;
- if an outstanding balance remains on Mrs C's account once all adjustments have been made NewDay should contact Mrs C to arrange a suitable repayment plan for this;
- 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 Mrs C along with 8% simple interest† on the overpayments from the date they were made until the date of settlement; and
- amend Mrs C's credit file to remove all adverse information recorded from September 2020 to date.

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

My final decision

I am upholding Mrs C's complaint in part. NewDay Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 27 July 2022.

Rebecca Connelley
Ombudsman