

The complaint

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

What happened

Miss C applied for a credit card in March 2017. It was approved with a limit of £1,200 and she was given five subsequent credit limit increases by NewDay.

The first increase in July 2017 was for £900 taking the limit to £2,100; the second in October 2017 was for £1,000 increasing the limit to £3,100; the third in March 2018 was for £750 increasing the limit to £3,850 and the fourth in May 2019 raised the limit by £1,200 to £5,050. The final increase was in January 2020 for £750 taking Miss C's credit limit to £5,800.

Miss C says if NewDay had carried out proper checks it would have seen the credit was unaffordable. Its lending has made her financial position worse.

Our investigator upheld Miss C's complaint in part. He said the initial lending decision was fair as was the first limit increase in July 2017, but from that point onwards it was most likely the increases would be sustainably unaffordable for Miss C and so they should not have been given.

NewDay disagreed. It said, in summary, the significant rise in debt at the time of the second increase was a hire purchase agreement costing £212 a month – so a single loan for a high value item. Miss C managed the extended credit for nearly three years after the third increase. And Miss C switched her direct debit from full payment to £100 from August 2017, but she was still paying more than the minimum required. In January 2018 she amended it again to only make the minimum contractual repayment.

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 Miss C were affordable and sustainable. Such checks need to be proportionate to things like the credit limits it offered Miss C, how much she had to repay (including interest and charges) each month, her borrowing history with it and what it knew about her circumstances. 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 Miss 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. I also need to think about, bearing in mind the circumstances at the time of each additional advance in credit, whether there was a point at which NewDay ought reasonably to have realised it was increasing Miss C's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit.

The card application and initial limit

When Miss 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 Miss C declared an income of £20,800 and that she had £600 of debt. She had six active accounts that were all up-to-date. She did have some historic defaults but given the amount of credit, Miss C's declared income a, low level of indebtedness and the fact all of Miss C's active accounts were up-to-date I don't think it would have been proportionate for NewDay to have carried out a fuller financial review. So I think it was reasonable for NewDay to conclude the card and its repayments would be sustainably affordable for Miss C. It follows I don't think NewDay was wrong to give Miss C the card.

The first credit limit increase in July 2017

NewDay offered Miss C a credit limit increase of £900 to £2,100 in July 2017. I think this was a significant increase and NewDay needed to be sure Miss C could sustainably repay a balance of £2,100 within a reasonable period of time. NewDay's submission suggests that its decision to increase the credit limit on Miss C's account was largely based on her account management. I have some concerns with this approach as it's not clear to me why a borrower who is able to successfully manage a given credit limit can then automatically be deemed, without further checks at the time of the decision, to be able to successfully manage a higher limit. It seems to me that this logic would likely lead to continually increasing limits, unless or until problems arise.

But notwithstanding this, at the time of the first limit increase I can see that Miss C had repaid her account each month (NewDay has confirmed she had a full balance direct debit at this time) and the balance had been significantly under the limit in the months since the account was opened. So I can to an extent see why this may have led NewDay to conclude that Miss C was managing the account well. And although I don't think that this, in itself, means that NewDay knew Miss C was in a position to sustainably repay an increased balance within a reasonable period, I find that the decision to increase Miss C's credit limit at this time wasn't unreasonable. In addition, NewDay could see that Miss C's external borrowings had decreased by around 20% over the same time period.

It follows I don't think NewDay was wrong to give the first limit increase to Miss C.

The second credit limit increase in October 2017

Following the same approach, NewDay increased Miss C's limit to £3,100 in October 2017. I won't comment on the proportionality of the checks as even based on the information it gathered I think NewDay made an unfair lending decision. Miss C's account balance had increased five-fold since the previous credit limit increase, and she had reduced her monthly payments. It could see Miss C's external debt had risen significantly from £6,265 to £19,055 at the time of this limit increase. NewDay argues this was mainly a hire purchase agreement – so for one high value item - but this does not change the amount of her income Miss C would now need to spend on servicing her debt. And I think this was most likely much too high a percentage for it to be sustainable. In these circumstances I find it was irresponsible

for NewDay to further increase her indebtedness.

It follows I think NewDay was wrong to increase Miss C's limit in October 2017.

In these circumstances, I think that NewDay ought to have realised that any subsequent extension of her available 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 Miss C's income. By January 2018 Miss C had changed her payment behaviour to only make the minimum payment and she was making no inroads into reducing her external debt either. So I think it was clear Miss C was going to struggle to repay what she owed sustainably – even without further increases – within a reasonable period of time. NewDay argues that Miss C managed the extended credit for nearly three years after the third increase. But as it has not shown that it knows she did this without borrowing to repay, or suffering some other financial detriment, this does not change my conclusion.

It follows I think NewDay was wrong to provide the subsequent three limit increases.

This means Miss C went on to pay interest and charges on four advances of credit that shouldn't have been provided to her. So I'm satisfied that she has lost out as a of what NewDay did wrong. And NewDay now needs to put things right.

Putting things right

NewDay should:

- rework Miss C's NewDay account to ensure that from October 2017 interest is only charged on the first £2,100.00 outstanding, all late payment and over limit fees should also be removed;
- if an outstanding balance remains on Miss C's account once all adjustments have been made NewDay should contact Miss 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 Miss C along with 8% simple interest† on the overpayments from the date they were made until the date of settlement; and
- amend Miss C's credit file to remove all adverse information recorded from October 2017 to date.

If NewDay has sold the debt it should first try to buy it back. If it can't do this it must work with the new owner to achieve the same outcome as the steps set out above.

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

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 20 July 2022.

Rebecca Connelley
Ombudsman