

The complaint

Miss S complains that NewDay Ltd ("NewDay"), trading as Aqua, irresponsibly granted her credit that she couldn't afford to repay.

What happened

NewDay approved a credit card application for Miss S in August 2016. They initially provided a credit limit of £300 but the limit was progressively increased until it reached £5,650 in May 2019.

Miss S says they were wrong to provide credit as it wasn't affordable for her.

NewDay disagree. They say that when they approved the credit card application they reviewed Miss S's credit file and found she had no arrears, no County Court judgements, and no pay day loans or defaults. They noted there was £12,500 of unsecured debt but considering Miss S had told them she was living with her parents and earning about £15,000 per year they thought the card with an initial credit limit of £300 was affordable for her.

And when NewDay increased the credit limits they said their risk and affordability data showed Miss S had been managing her account quite well with only one payment fee and some high value payments being made to clear the debt. They noted that there had been some instances where Miss S had relied on cash withdrawals from her credit card account prior to the last limit increase but that her reliance on payday loans had reduced with non being taken out since July 2017. They thought the credit limit increases were therefore affordable.

Our investigator thought that NewDay shouldn't have approved the card application and suggested NewDay should take some action to remedy the situation. But as NewDay disagreed the complaint has been referred to me, 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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering what's fair and reasonable in the circumstances of this complaint.

Account opening.

I don't think NewDay completed proportionate checks before approving the credit card. They reviewed Miss S's credit file and gathered some information from her about her income and circumstances. That information showed Miss S was on a low income and already had significant unsecured debt showing on her credit file. I think NewDay should have completed further checks before approving the card in order to clarify Miss S's income and expenditure.

I think it would have been proportionate for NewDay to have verified Miss S's financial circumstances. One way NewDay could have done this was by requesting copies of her bank statements. I've reviewed three months of bank statements leading up to the lending decision.

The statements show that Miss S declared income was wrong. At the time of application her income was much lower than she'd declared to NewDay and only about £7,000 a year. Her account was regularly in significant overdraft and there was more coming out than was going in. This demonstrates that Miss S didn't have enough disposable income to afford the additional borrowing. I think it's likely proportionate checks would have revealed this to NewDay, it therefore didn't act fairly by approving the credit card.

The subsequent limit increases

As I've not been persuaded that NewDay should have provided the card in the first place I don't think the limit increases can also be considered affordable. NewDay hadn't completed proportionate checks to assure themselves of Miss S's income and expenditure and if they had they would likely have discovered the card and all subsequent limit increases were unaffordable for her.

Putting things right

As I don't think NewDay ought to have opened the account, I don't think it's fair for it to be able to charge any interest or charges under the credit agreement. But I think Miss S should pay back the amounts she has borrowed. Therefore, NewDay should:

- Rework the account removing all interest, fees, charges, and insurances (which have not already been refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Miss S along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove all adverse information regarding this account from Miss S's credit file.
- Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Miss S for the remaining amount. Once Miss S has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

*If HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Miss S a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

I uphold this complaint and direct NewDay Ltd to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept

or reject my decision before 22 September 2022.

Phillip McMahon
Ombudsman