

The complaint

Ms W is unhappy that NewDay Ltd, trading as Aqua, provided her with new and further credit which she feels wasn't affordable for her at those times.

What happened

In March 2017, Ms W applied for a NewDay administered credit account. Her application was approved, and NewDay issued Ms W with a new credit account with an initial credit limit of £600.

In December 2017, NewDay increase the credit limit on Ms W's account to £1,200. Further credit limit increases followed, in May and September 2018, to £2,450 and £3,200 respectively. The credit limit in Ms W's account was then reduced to £1,600 in April 2019, but then increased again to £3,100 in October 2020.

In February 2021, Ms W applied for a second NewDay administered credit account. This application was also approved, and NewDay provided Ms W with a second credit account, again with an initial credit limit of £600.

Later in 2021, Ms W raised a complaint with NewDay because she felt that in all instances she hadn't been able to afford the new or further credit that NewDay had provided to her, and that this should have been apparent to NewDay had they undertaken checks into her financial position before approving her for any credit.

NewDay looked at Ms W's complaint. They confirmed that they had undertaken checks into Ms W's financial position before approving her for credit, and that there'd been nothing resulting from any of these checks which they felt should have given them reasonable cause to suspect that Ms W might not be able to afford the credit that she was offered.

Ms W wasn't satisfied with NewDay's response, so she referred her complaint to this service. One of our investigators looked at this complaint. They felt that it had been reasonable for NewDay to approve Ms W's initial application for credit in March 2017, but they felt that the information that NewDay assessed about Ms W for all the other provisions of credit was such that NewDay should have concluded that Ms W most likely wouldn't be able to afford any further credit at those times and therefore further credit shouldn't have been provided to Ms W by NewDay. And our investigator recommended that this complaint be upheld in Ms W's favour on that basis.

NewDay didn't agree with the view of this complaint put forwards by our investigator, so the matter was escalated to 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.

I issued a provisional decision on this complaint on 16 May 2022 as follows:

It's for a business to decide whether it will offer credit to a customer, and if so, how much and on what terms. What this service would expect would be, that before approving a customer for a new line of credit, or before increasing the amount of credit available to a customer on an existing line of credit, the business would undertake reasonable and proportionate checks to ensure that any credit being offered to a customer is affordable for that customer at that time.

NewDay believe that they did that here and note that they took information from Ms W at the time of the initial application for credit in March 2017 about her employment status and annual income. NewDay also note that they obtained information about Ms W from a credit reference agency at that same time to get a better understanding of Ms W's wider financial position. And NewDay contend that there was nothing resulting from any of that information that they feel should have given them any reasonable cause to believe that Ms W might not be able to afford the credit that she was subsequently approved for.

Considering the information that NewDay gathered and assessed here, I note that Ms W explained to NewDay at the time of the application that she was living with parents and that she was employed with an annual income of £24,000. It's also evident from the information that NewDay obtained about Ms W from a credit reference agency that she had total existing credit at that time of £15,100, and I note that NewDay considered Ms W to have a high level of existing indebtedness as well as a below average income at that time.

While Ms W's level of already existing debt was notably high at that time, Ms W's credit file showed that she seemed to be managing her existing credit commitments without significant incident at that time. I say this because there wasn't any record of Ms W missing payments or being in arrears on any of her other credit accounts, and there was also no record of Ms W having defaulted on any of her accounts or of here using any short-term payday loans that might have suggested that she was struggling to manage her finances in any way.

As such, on balance and in consideration of all these points, I feel that it was reasonable for NewDay to have approved Ms W's initial application for credit and to have provided her with a credit account with the relatively low initial credit limit of £600.

In December 2017, NewDay increased the credit limit on Ms W's account to £1,200. While NewDay didn't contact Ms W directly at that time to refresh their understanding of her living and employment status and here annual income amount, they did assess updated information about Ms W obtained from a credit reference agency, as well as assessed how Ms W had managed her credit account with NewDay up to that time.

It's notable from the information that NewDay obtained from the credit reference agency that Ms W's total amount of existing debt had been going down on a month to month basis since the time that the NewDay credit account had opened, reducing from £15,100 in March 2017 to approximately £12,050 in November 2017 – the month before the credit limit increase.

Ms W's credit file also appears to show that she was managing her other existing credit commitments without significant incident, and while there was one incidence of a late or missed payment in September 2017, it's evident that Ms W was able to resolve that situation immediately so that no further records of missed or late payments occur.

As such, while Ms W's total amount of credit was still high, it was reducing, and so it may seem at first glance that Ms W most likely could have afforded the increase to her credit limit that NewDay provided her with in December 2017. However, I feel that how Ms W had managed her NewDay credit account in the months leading up to the credit limit increase does provide a different view on Ms W's potential creditworthiness at that time.

I say this because Ms W had incurred a large number of late fees on the account, including in four of the five months immediately preceding the credit limit increase. Ms W had also incurred an over-limit fee in June 2017, and it's notable that Ms W didn't make a payment towards the NewDay account at all in the month of August and was considered as being in a payment delinquency status by NewDay because of this.

NewDay may contend that late fees can demonstrate the mismanagement of an account, rather than a lack of affordability. But such mismanagement can be a symptom of deeper financial problems, and at the very least I feel that Ms W's consistent inability to make the monthly payments required on the account in good time, and to have incurred repeated charges on her account because of this, should have given NewDay cause to further investigate whether Ms W would in all likelihood be able to afford the further credit that they were considering providing to her, before they actually provided it.

However, it doesn't necessarily follow from the above that I feel that Ms W couldn't reasonably afford the further £600 credit that NewDay provided to her in December 2017, but only that I feel that NewDay should have undertaken further checks into Ms W's financial position before approving such further credit.

It's difficult not to conclude that such further checks should have reasonably included a review of Ms W's current account statements for the months leading up to the credit limit increase. Ms W has provided current accounts for this period to this service, but having reviewed these statements I don't feel that they provide any notable evidence of potential financial difficulty such that NewDay shouldn't have offered the further £600 credit to Ms W. I say this because Ms W was receiving regular income and because of what I consider to be normal usage of the account in the months leading up to the credit limit increase, including a large amount of retail and leisure spend which isn't usually indicative of a person in financial difficulty.

As such, despite the late fees incurred on the NewDay credit account by Ms W, I'm satisfied that upon a more detailed review of Ms W's finances, it would have been reasonable for NewDay to have concluded that Ms W was generally maintaining her finances without significant incident at that time, and that she would most likely be able to afford the further credit being offered to her.

NewDay increased the credit limit on Ms W's account again – from £1,200 to £2,450 – in May 2018. This is a significant increase, and it's immediately notable from Ms W's credit account information that her total amount of existing debt, which had been reducing up to the point of the first credit limit increase, had increased again in the months leading up to this second credit limit increase, so that it was approximately £15,800.

Once again, NewDay didn't contact Ms W directly to update their understanding of her annual income, and so I can only conclude that NewDay continued to assess Ms W's income as being £24,000 per annum at that time – a figure which I note corresponds with the regular net income that Ms W was receiving at that time, as shown on her bank statements for the months leading up to the credit limit increase.

This means that before the credit limit increase, Ms W already had existing debt totalling over 65% of her previously declared annual income, which increased to over 71% of her previously declared annual income following the credit limit increase provided by NewDay. This doesn't feel sustainable to me, and I'm not convinced that it was fair or reasonable for NewDay to have offered further credit to Ms W under these circumstances, especially given the still relatively low income of Ms W at that time, which generally means that an individual has less disposable income with which to reduce their existing indebted amount.

Additionally, while Ms W had improved the management of her NewDay account, reducing the number of late fees that she'd incurred, it's notable that Ms W continued to have issues and didn't make a payment towards the account at all in February 2018, as well as incurred a late payment fee on the account in April 2018.

Ultimately, given Ms W's wider financial position, as well as her relatively low income and her high existing debt to income ratio, I feel that NewDay should have reasonably concluded that the provision of further credit to Ms W, beyond the £1,200 credit limit already in place, wouldn't in all likelihood be affordable for Ms W and therefore shouldn't have been offered to her. And I'll be provisionally upholding this aspect of Ms W's complaint on that basis.

Consequently, this also means that I also don't feel that further credit limit increase to £3,200, which took place in September 2018 should have been provided to Ms W.

However, it's notable that the credit limit on this account was reduced in April 2019 to £1,600, and so I've assessed whether I feel that a credit limit of £1,600 was fair and reasonable at that time. In short, I feel that it was, and I say this because by this time Ms W's total amount of existing debt had reduced back down to under £12,000, which I feel was more reasonably sustainable for Ms W, and also because Ms W had reduced the balance of her NewDay account to zero and wasn't regularly using the account. Finally, it's notable that Ms W's credit file didn't show that she was in arrears on any of her other credit commitment. And so, taking all of these factors into consideration, I feel that a credit limit of £1,600 was reasonable for Ms W at that time.

Ms W began regularly using the credit account again in December 2019, and in October 2020, NewDay increased the credit limit on the account to £3,100 – a similar level to what it had been before the reduction to £1,600.

Again, NewDay don't appear to have contacted Ms W to have updated their understanding of her income before providing this credit limit increase, and having reviewed Ms W's current account statements for the months leading up to this increase it appears that Ms W's monthly salary amounts remained similar to what she was earning previously and were consistent with her originally declared annual income of £24,000.

It's immediately notable from the credit file information that NewDay assessed that Ms W's total existing debt had grown to over £19,500 in the months leading up to the credit limit increase, which meant that with the provision of a further £1,500 credit – as NewDay subsequently provided – Ms W had existing debt totalling over 87% of her declared annual income. This doesn't feel sustainable to me for the same reasons as previously explained, and so I'll be provisionally upholding this aspect of Ms W's complaint.

Finally, Ms W applied for a second NewDay administered credit account in February 2021. NewDay approved this application, but Ms W never used the account, and it was closed six months later. As such, I haven't assessed or considered this account further.

All of which means that my provisional decision will be that I am upholding this complaint in Ms W's favour on the basis outlined above.

In my provisional decision letter, I gave both Ms W and NewDay the opportunity to provide any comments or new information they might wish me to consider before I moved to a final decision.

Both Mrs W and NewDay confirmed that they were happy to accept my provisional decision, and so I see no reason not to issue a final decision upholding this complaint in Ms W's favour on the basis as outlined in my provisional decision. And I can confirm that my final

decision is that I do uphold this complaint in Ms W's favour accordingly.

Putting things right

NewDay must reimburse to Ms W's account all fees and charges incurred on the account from the point of the credit limit increase to £2,450 in 2018 to the reduction of the credit limit to £1,600 in 2019 ("the first period"), and also from the credit limit increase to £3,100 in 2020 to date ("the second period").

NewDay must also reimburse to Ms W's account all interest accrued on any portion of the account balance above £1,200 for the first period as described above, and also reimburse to the account any interest accrued on any portion of the balance above £1,600 for the second period as described above.

If these reimbursements result in a credit balance in Ms W's favour, NewDay must pay this balance to Ms W along with 8% simple interest calculated to the date of payment.

If these reimbursements result in Ms W still having a balance outstanding to pay, NewDay should arrange a suitable repayment plan with Ms W, ensuring as a minimum (but not being restricted to) that no ongoing interest is incurred on any portion of the balance above £1,600.

Finally, NewDay must remove all adverse reporting from Ms W's credit file relating to both the first and second periods as described above.

My final decision

My final decision is that I uphold this complaint against NewDay Ltd, trading as Aqua, on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 24 June 2022.

Paul Cooper
Ombudsman