

## The complaint

Mr D complains that NewDay Ltd ('NewDay') irresponsibly gave him two running account credit facilities that he couldn't afford.

## What happened

In February 2018, Mr D applied for an Aqua Mastercard credit account with NewDay. He was given an initial credit limit of £250. The credit limit was increased three times by April 2019 to £3750.

In February 2020, Mr D applied for an AO credit account with NewDay. He was given an initial credit limit of £800. The credit limit was not increased.

Later in 2020, Mr D complained to NewDay to say that the accounts shouldn't have been opened for him because it wasn't affordable and that NewDay ought to have made a better effort to understand his financial circumstances before increasing his credit limits.

NewDay agreed in part. They told Mr D that they shouldn't have increased his credit limit on the Aqua account in December 2018 to £2250. But they thought the AO account was reasonable lending. As redress NewDay has already paid some money off Mr D's Aqua Mastercard account.

Our adjudicator thought NewDay were right to uphold the complaint about the Aqua account in part, but she thought NewDay should have upheld the complaint earlier than it did. Our adjudicator thought NewDay should not have allowed the credit limit to increase to £900 in August 2018. And she thought that the AO account ought not to have been offered to Mr D.

Neither party entirely agreed and so the complaint passed to me to decide.

I issued my provisional decision in respect of this complaint on 20 May 2022, a section of which is included below, and forms part of, this decision. In my provisional decision I set out the reasons why I didn't agree entirely with the adjudicator's view. I set out an extract below:

*"Our adjudicator's assessment provided a detailed account of all the increases and suspensions of credit, and they are summarised above. Neither party has called the specifics into question, so, I don't intend to cover them off here.*

*NewDay has made a partial offer of redress and Mr D is unhappy with that offer as he thinks the accounts were not reasonable lending. So, it is my job to see if I think Mr D is entitled to more redress than he has already been offered. Having considered all the submissions made in this case, I don't Mr D is entitled to more than he has already been offered. I'll explain why I say that.*

### The Aqua Mastercard Account

*Mr D's complaint is that NewDay made credit available that was unaffordable. I have noted that Mr D told NewDay that he was not working when he applied for this Aqua account. But that doesn't mean this lending was automatically unreasonable. Mr D told us he was a student with a grant. It is not straightforward trying to determine affordability because Mr D has not been able to provide the bank statements from the times before the lending decisions and the increases in credit limits were made. And without being able to see Mr D's bank statements, it's difficult to see what kind of amounts were coming in and out of his account; that is, what affordability he really had.*

*NewDay has explained that it carried out a credit check using a credit agency to determine the amount of credit it was able to offer. It's possible that NewDay failed to make adequate checks before providing Mr D with credit. But even if that's true, I don't think better enquiries would have caused NewDay to think the initial credit limit or the credit increase in August 2018 were unaffordable.*

*I say this because the initial credit limit and the first increase of credit to £900 were modest and the maximum monthly payments for that credit would have been relatively modest. And subsequently the account was well managed for the most part. I have noted that Mr D's account went over its credit limit in the month before the August 2018 limit increase. But this was for a modest amount. At the time of your application, NewDay found no arrears, defaults or public records of an adverse nature on Mr D's credit search. And I have seen no evidence that any payments were missed.*

*So, having considered all the submissions made in this case, and in the absence of any extra evidence from Mr D to the contrary, I have seen insufficient evidence to think that a more thorough affordability check would have led NewDay to think that the credit it provided Mr D was unreasonable initially or when it increased the credit limit in August 2018.*

*I agree with NewDay and Mr D that the credit increase to £2250 in December 2018 was unreasonable lending, representing a ninefold increase in the credit limit in ten months. And as there is no argument about this, and as NewDay has already calculated redress from that date onwards, I will say nothing more about it.*

#### *The AO account*

*It is not straightforward trying to determine affordability because Mr D has not been able to provide any bank statements from the time in question. NewDay has explained that it carried out a credit check using a credit agency to determine the amount of credit it was able to offer. It's possible that NewDay failed to make adequate checks before providing Mr D with credit. But even if that's true, I don't think better enquiries would have caused NewDay to think the credit in February 2020 was unaffordable.*

*I say this because the initial credit limit was modest and the maximum monthly payments for that credit would have been relatively modest. And subsequently the account was well managed. And I have thought about the fact that when Mr D applied for the AO account in February 2020, he told NewDay his circumstances had changed. Mr D told NewDay he was self-employed and earned about £16000 a year.*

*So, having considered all the submissions made in this case, and in the absence of any extra evidence from Mr D to the contrary, I have seen insufficient evidence to think that a more thorough affordability check would have led NewDay to think that the credit it provided Mr D in February 2020 was unreasonable.*

*It follows that NewDay should put things right on Mr D's Aqua Mastercard account.*

### **Putting things right – what NewDay needs to do**

- *Rework Mr D's Aqua Mastercard account to ensure that from 10 December 2018 onwards interest is only charged on balances up to the total credit limit of £900, including any buy now pay later interest, (being the credit limit in place before that date) 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; and*
- *If an outstanding balance remains on the account once these adjustments have been made NewDay should contact Mr D to arrange an affordable repayment plan for these accounts. Once Mr D has repaid the outstanding balance, it should remove any adverse information recorded on Mr D's credit file from 10 December 2018 onwards for the Aqua Mastercard account.*

OR

- *If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr D, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. NewDay should also remove any adverse information from Mr D's credit file from 10 December 2018 onwards.†*

*†HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Mr D a certificate showing how much tax it's taken off if he asks for one.*

*If NewDay has already made this redress as detailed above, then it need do nothing else.*

*I know that Mr D will be disappointed with my decision. But I want Mr D to know that I listened to all the submissions made in this case. Having done so, I have not found sufficient evidence to uphold this complaint in its entirety.*

### **My provisional decision**

*For the reasons given above, I intend to partially uphold this complaint."*

I asked the parties to the complaint to let me have any further representations that they wished me to consider by 3 June 2022. Both NewDay and Mr D have acknowledged receiving the decision and both have agreed to the provisional findings I made. NewDay have said it will make the calculation of redress when it receives Mr D's acceptance. Neither party has suggested they wish to make any further submissions. So, I am proceeding to my 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.

NewDay will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

Given that there's no new information for me to consider following my provisional decision, I have no reason to depart from those findings. And as I've already set out my full reasons for upholding Mr D's complaint in part, I have nothing further to add.

### **Putting things right**

NewDay Ltd should put things right in the way set out above in my provisional decision.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 11 July 2022.

Douglas Sayers  
**Ombudsman**