

The complaint

Mr C complains that NewDay Ltd trading as Aquacard ("NewDay") acted irresponsibly when they agreed to provide him with a credit card account and later increased his account limit to an unaffordable level.

What happened

Around October 2015, Mr C applied to NewDay for a credit card. He completed his application online. NewDay assessed Mr C's application based upon information he'd provided together with information obtained from credit bureaus. They agreed to provide a credit card account with an initial limit of £300.

NewDay later undertook a review of Mr C's credit card account with them. They used information held about Mr C's financial circumstances together with information obtained from credit bureaus. They also looked at how Mr C had used his credit card account with them. NewDay decided to offer an increased limit of £1,000. They wrote to Mr C to tell him this and gave him 40 days to contact them should he not want his limit increasing. Mr C's account limit was increased to £1,000 in July 2016.

In July 2021, the CMC wrote to NewDay on Mr C's behalf. They thought NewDay had acted irresponsibly when they agreed to provide Mr C with a credit card account. They also thought NewDay had been irresponsible when they increased his account limit in July 2016. The CMC made the following points:

- NewDay failed to properly assess Mr C's financial circumstances; and
- Mr C's income and expenditure at the time showed the credit provided was unaffordable; and
- Mr C was already paying several lenders and his income would no longer cover his monthly repayments; and
- Mr C had a poor credit rating at the time NewDay agreed to lend.

The CMC asked NewDay to refund all interest and charges they'd applied, pay 8% statutory interest and remove all related negative or adverse information from Mr C's credit file.

NewDay considered Mr C's complaint but didn't think they'd acted unfairly or unreasonably. They were satisfied that the account and credit limit increase were provided correctly, and adequate checks were completed to ensure they were affordable. The CMC didn't agree with NewDay's findings, so referred Mr C's complaint to this service.

Our investigator considered Mr C's complaint and asked NewDay to provide all relevant facts and information. Having provided that information, NewDay said that their original decision to provide a credit card account remained appropriate. But they now agreed they shouldn't have increased Mr C's limit in July 2016. NewDay offered to refund interest and charges from when the limit increase took effect. Our investigator agreed with NewDay's findings and supported their offer.

Mr C didn't agree that NewDay's original decision to give him a credit card was appropriate. He also said that the income figure they'd used in his application was wrong. So, he wasn't willing to accept NewDay's offer.

As an agreement couldn't be reached, Mr C's complaint has been passed to me to consider.

I reached a different outcome to that of our investigator. Because of that, I issued a provisional decision on 9 June 2022 – giving both Mr C and NewDay the opportunity to respond to my findings below before I reached a final decision.

In my provisional decision, I said:

NewDay have provided details of the information Mr C input in his online application in 2015. This showed Mr C stated an income of £30,422. Mr C says this figure isn't correct and should be £10,000 less. But as the information feeds directly from what Mr C originally input, I can't reasonably say that NewDay were at fault if this figure was incorrect.

The application and credit bureau information also show that Mr C had existing unsecured debts of £5,700, had no outstanding payday loans or any adverse markers or missed payments in the preceding 12 months. There was evidence of previous defaults, but the last of these was more than three years before Mr C's application. There was also evidence of other public records. But again, these predated the application by at least 18 months.

NewDay have said Mr C's application falls within their policy as a "second chance lender" that offers lending to people who may have been rejected by other 'high street' lenders. NewDay is entitled to decide who they lend to and, if they want to accept the risk of lending to people that other business may not lend to, they are free to decide that. But that doesn't mean that they don't have the same obligations as other lenders to perform borrower focused assessments that any lending they provide is affordable and sustainable.

The relatively small level of borrowing NewDay made available to Mr C leads me to think that the checks they did – including taking the information Mr C provided in good faith and double-checking credit reference information – were proportionate here. So, I don't believe that NewDay were acting irresponsibly when they originally agreed to lend to Mr C with a limit of £300.

NewDay have now agreed that when they increased Mr C's limit, the information available to them at the time should have resulted in a different decision. They've agreed that the increased limit was not appropriate. Having considered all the information, I agree with NewDay on this point. So, I believe any redress should be reflective of this.

Mr C has received benefit from the money he borrowed, so it's fair that he remains liable for any remaining amount outstanding. I also agree that NewDay should refund interest and charges to Mr C's account. But as I think the original decision was appropriate, this should only relate to any element over and above the original £300 limit. In the event that the refunded interest and charges result in a surplus balance falling due to Mr C, then NewDay should also add interest of 8% simple to this figure.

I'm mindful that the CMC have asked that Mr C's credit file be amended. To ensure a fair outcome, I think NewDay need to ensure that any balance changes on Mr C's account, resulting from the interest and charges refunded, are reflected in the monthly balances reported on his credit file. In addition, once any remaining balance has been repaid by Mr C, NewDay should then remove any related adverse information from Mr C's credit file.

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.

In my provisional decision, I asked both parties to respond with any new information or comments they wanted me to consider.

NewDay confirmed they had no final points they'd like to make, and they agreed with the findings in my provisional decision.

The CMC confirmed they'd received my provisional decision and while they did confirm they'd reached out to Mr C for his comments, I haven't received any further comments or information.

On the basis that I've not seen anything more that persuades me to change my mind, my final decision will remain unchanged.

My final decision

For the reasons set out above, I uphold Mr C's complaint.

I require NewDay Ltd (trading as Aquacard) to settle as follows:

- Refund all charges and interest relating to any balance owed above the original £300 limit agreed.
- If an outstanding balance remains owed once the refunds have been made, NewDay should contact Mr C to discuss a suitable repayment plan.
- If the effect of refunding all interest, fees and charges leaves a credit balance, the balance should be treated as overpayments and returned to Mr C along with 8% interest† from the date they were made until the date of settlement.
- Amend Mr C's credit file to reflect the new monthly balances after refund of interest and charges.
- Remove any related adverse information from Mr C's credit file once the outstanding balance had been repaid.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 9 August 2022.

Dave Morgan
Ombudsman