

The complaint

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

What happened

Miss P entered into an agreement with NewDay to have access to credit with an Aqua credit card account. The account was opened in November 2017 with a credit limit of £450. There followed five credit limit increases, between September 2019 and September 2021, when the credit limit was increased from £1,150 to £5,900.

Miss P says that NewDay didn't complete adequate affordability checks when it opened the account. She says if it had, it would have seen that it wasn't affordable for her as she didn't have enough income to make the repayments and was already in financial difficulty.

Our adjudicator said that NewDay shouldn't have increased Miss P's credit limit in April 2021.

NewDay didn't agree. It said that it carried out a reasonable and proportionate assessment to check Miss P's financial circumstances before granting her the account. It also asked a number of questions about Miss P's financial situation.

The complaint has now been passed to me 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.

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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.

Account opening

The credit check NewDay completed looked into Miss P's financial circumstances. New Day also relied on information Miss P gave on her application. Miss P said she had an annual income of around £13,800. There was no evidence of Miss P having any defaults, payment arrangements or arrears elsewhere, although the checks showed she had around £1,500 in outstanding unsecured credit. However, just because I think it carried out proportionate checks, it doesn't automatically mean it made a fair lending decision. So, I've thought about what the evidence and information showed.

I've reviewed the information and evidence NewDay gathered. Having done so I'm satisfied that the opening checks showed that the agreement was likely to be affordable to Miss P. I say this because, given the available information about her income and debt, it was likely that the relatively modest opening credit limit of £450 would be affordable for her. I therefore don't think New Day acted unfairly when approving the finance application.

first, second and third credit limit increases

The initial £450 opening credit limit was increased to £1,150 in September 2019, then to £1,900 in September 2020 and then to £2,900 in January 2021.

I agree with our adjudicator that it would have been proportionate for NewDay to have taken steps to find out more about any changes to Miss P's income as well as the level of committed expenditure she had at the point of each of these increases. I can't be sure exactly what NewDay would have found out if it had asked. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Miss P's bank statements as to what would most likely have been disclosed.

I've reviewed three months of bank statements leading up to the lending decision. I agree with our adjudicator that these show Miss P's committed expenditure, including her normal living costs, rent, utilities food and car expenses, as well as existing borrowing, would have typically left her with enough disposable income. For the September 2019 increase it looks like she had an average of around £210 of disposable income available each month, for the September 2020 increase it looks the figure would have been around £760 and for the January 2021 increase it looks to have been around £600. All of this suggests that Miss P had enough disposable income each month to make regular, sustainable repayments towards her new credit facility. Had NewDay completed proportionate checks for each credit limit increase, I think it's likely it would have discovered this too. It therefore didn't act unfairly by granting Miss P each of these three credit limit increases.

Fourth and fifth credit limit increases

In April 2021 Miss P's credit limit increased to £4,400 and in September 2021 to £5,900. Again, I think it would have been proportionate for NewDay to have found out more about Miss P's committed expenditure for each increase. I can't be sure exactly what NewDay would have found out if it had asked at each of those points. So in the absence of anything else, I again think it would be reasonable to place significant weight on the information contained in Miss P's bank statements as to what would most likely have been disclosed. I've reviewed three months of bank statements leading up to the April 2021 lending decision. These show that Miss P's monthly income at this time was averaging out at about £700 per month. But given that her monthly outgoings and committed expenditure was averaging out at around £1,150 per month there would be a significant shortfall. It's therefore reasonably clear that by this time Miss P didn't have enough disposable income to sustainably afford the additional borrowing.

It follows that I agree with our adjudicator that NewDay ought not to have increased Miss P's credit limit after it gave her the increase to £2,900 in January 2021.

NewDay responded to our adjudicator's view with a number of questions about Miss P's financial situation. So I asked our adjudicator to go back to Miss P for some more information. Miss P immediately responded by sending in details of an ISA account and another bank account she held. She says she used these to hold money she needed as a student, paying in her student loan and other funds and then paying these sums back out into her current account to help fund her regular outgoings and credit commitments. Miss P

also confirmed that she had recently taken out further hire purchase credit to pay for a car, her previous car having been written off.

Whilst I agree that we now have a fuller picture of Miss P's financial arrangements, I haven't seen anything else to suggest that Miss P's overall position was any better than we previously understood it to be. I therefore still agree with our adjudicator that she was struggling financially at the time she was given the fourth credit rise in April 2021.

Putting things right – what NewDay needs to do

NewDay shouldn't have increased Miss P's credit limit from £2,900 in January 2021. NewDay therefore needs to do the following.

- Rework Miss P's account to ensure that all interest and charges should be removed from the account for balances over £2,900. 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 Miss P to arrange an affordable repayment plan for the account. Once Miss P has repaid the outstanding balance, it should remove any adverse information recorded on Miss P's credit file from 11 January 2021 onwards.

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 Miss P, 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 Miss P's credit file from 11 January 2021.

My final decision

I therefore partially uphold this complaint and require NewDay Ltd to pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 13 September 2022.

Michael Goldberg
Ombudsman