

## The complaint

Mr C says NewDay Ltd, trading as Aqua, irresponsibly lent to him.

## What happened

Mr C applied for a credit card in April 2014. It was approved with a limit of £250 and he was given six subsequent credit limit increases by NewDay. A summary follows.

| Increase | date   | limit increase, £ | new limit, £ |
|----------|--------|-------------------|--------------|
|          | Apr-14 | -                 | 250          |
| 1        | Aug-14 | 350               | 600          |
| 2        | Jan-15 | 200               | 800          |
| 3        | Apr-15 | 1,000             | 1,800        |
| 4        | Sep-15 | 1,000             | 2,800        |
| 5        | Feb-16 | 850               | 3,650        |
| 6        | Jul-16 | 1,100             | 4,750        |

Mr C says NewDay did little or no research into his financial situation. He was trapped in a cycle of debt, was reliant on payday loans, barely met his minimum payments and feels exploited. He was only able to clear his balance by cashing in a private pension.

Our investigator upheld Mr C's complaint in part. She found NewDay wasn't initially wrong to have given the card with its £250 limit, but all subsequent limit increases were irresponsible. She said there was evidence Mr C has struggling financially and that it was unlikely Mr C would be able to sustainably repay his borrowings.

NewDay disagreed, saying an instance of being overlimit and a few, infrequent cash transactions were not sufficient reasons to uphold this complaint. It asked for an ombudsman to review the complaint.

I reached a different conclusion to the investigator and so I issued a provisional decision. An extract follows and forms part of this final decision. I asked the parties to send in any comments or new information by 25 July 2022. As they both responded before this deadline I can issue my final decision now.

### *Extract from my provisional decision*

#### *The card application and initial £250 credit limit*

*When Mr C applied for the credit card NewDay asked about his employment and residential status and for details of his gross annual income. It carried out a credit check to understand his credit history and existing credit commitments. NewDay has shared the results of these checks.*

*They show that Mr C declared an income of £33,000 and that he had £4,800 of debt. He had one active account, it was up-to-date, and he had no history of defaults. So I think it was reasonable for NewDay to conclude the card and its repayments would be sustainably*

*affordable for Mr C. I would add here that Mr C has told us, and sent evidence to show that he was reliant on payday loans at this time. But these did not show on the checks NewDay carried out. A lender's credit check may not show everything a consumer would see on their full credit file as there can be timing differences and not all lenders report to all credit reference agencies. And in such an instance I can only fairly expect NewDay to respond to the information its credit check returned.*

*Given the amount of credit, Mr C's declared income and the results of the credit check, I don't think it would have been proportionate for NewDay to have requested the level of information that might have shown Mr C was having financial difficulties. It follows I don't think NewDay was wrong to give Mr C the card with a £250 limit.*

*The credit limit increases*

*NewDay has provided the information it based its checks on prior to increasing Mr C's limit each time. This included how he was using and managing his account and data on his external borrowings from the credit reference agencies. Our investigator found that there was evidence Mr C was having problems managing his money and so none of the increases should have been given.*

*I have currently reached a different conclusion. Over the 9 months during the time of the first two increases Mr C had been overlimit twice and for a single month. His account had been kept up-to-date and he generally paid more than the minimum payment. And the external data showed no signs of using payday loans. I accept this may not have been accurate for the reasons explained above. But overall I don't think NewDay made unfair lending decisions based on the results of its checks. And I think these were proportionate given Mr C's for the first two increases.*

*I think however that by increase three in April 2015 NewDay needed to have carried out further checks. This limit increase was four times Mr C's opening limit and it had now been 12 months since NewDay had asked for any information on Mr C's income or circumstances. However Mr C has been unable to send in the information I would need to understand his financial situation at the time. I have looked at the information he sent on his national insurance contributions but that does not give a complete enough picture of his financial position. This means I can't fairly conclude that better checks would have shown NewDay that the next two limit increases were not sustainably affordable.*

*However by limit increase 5 I think the available evidence shows NewDay made the wrong decision. It could see Mr C's frequency and value of cash withdrawals was increasing, he had been overlimit again and he was making proportionally lower payments each month – they were down to a level at which I would not consider he was sustainably repaying his debt. So I think NewDay was wrong to increase Mr C's limit from February 2016 onwards.*

*Indeed the data goes on to show Mr C then started using payday loans and cash withdrawals more regularly, suggesting he was under financial strain. Whilst I know NewDay did not have sight of this data in February 2016 I think there were ample indicators to allow it to fairly conclude it was most likely he would not be able to manage any additional credit sustainably.*

*It follows I currently think NewDay was wrong to give credit limit increases 5 to 6 to Mr C. This means Mr C went on to pay interest and charges on two advances of credit that shouldn't have been provided to him. So I'm satisfied that he has lost out as a of what NewDay did wrong. And NewDay will need to put things right.*

*I then set out what NewDay would need to do to if I went on to uphold Mr C's complaint.*

NewDay responded and accepted my provisional decision. Mr C replied and said he had no further information to add.

### **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.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website. I've followed it here.

As neither party sent in any comments or new evidence I have no reason to change the findings I set out in my provisional decision. For the reasons set out above I find NewDay was wrong to give Mr C limit increases 5 and 6.

### **Putting things right**

NewDay should:

- rework Mr C's NewDay account to ensure that from February 2016 interest is only charged on the first £2,800 outstanding, all late payment and over limit fees should also be removed;
- as the effect of all adjustments will result in there being no outstanding balance, then any extra should be treated as overpayments and returned to Mr C along with 8% simple interest† on the overpayments from the date they were made until the date of settlement; and
- amend Mr C's credit file to remove all adverse information recorded from February 2016 to date.

† HM Revenue & Customs requires NewDay 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.

### **My final decision**

I am upholding Mr C's complaint in part. NewDay Ltd, trading as Aqua, must put things right as set out above.

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

Rebecca Connelley  
**Ombudsman**