

## **The complaint**

Miss K, who is represented by a third party, complains that NewDay Ltd ("NewDay"), trading as Aqua, irresponsibly granted her a credit card that she couldn't afford to repay.

## **What happened**

Miss K entered into an agreement with NewDay to have access to credit with an Aqua credit card account. The account was opened in July 2017 with a credit limit of £250. There followed four credit limit increases, between January 2018 and August 2019, when the credit limit was increased from £800 to £3,300.

Miss K 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 was already struggling financially and having the card worsened her financial position.

Our adjudicator said that NewDay shouldn't have increased Miss K's credit limit in August 2019 as by that point it's likely that the account was no longer affordable for her.

As NewDay hasn't responded to our adjudicator's finding, the complaint has come 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.

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 K's financial circumstances, using information obtained from credit reference agencies. New Day also relied on information Miss K gave on her application. Miss K said she had an annual income of around £21,000. There was no evidence of Miss K having any defaults, payment arrangements or arrears elsewhere, although the checks showed she had around £300 in outstanding unsecured credit. However, just because it looks as if NewDay 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 K. I say this because, given the available information about her income and debt, it was likely that the relatively modest opening credit limit of £250 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 £250 opening credit limit was increased three times in 2018: to £800 in January, to £1,550 in July and then to £2,300 in October.

I agree with our adjudicator that Miss K's financial situation hadn't changed materially by January 2018, and she appears to have been managing her account reasonably well.

For the other two increases in July and October 2018, I agree that it would have been proportionate for NewDay to have taken steps to find out more about any changes to Miss K's income also to have checked her level of committed expenditure and living costs. I say this given that Miss K was using the card to take cash advances and that the frequency of those advances was steadily increasing during this time. I've also seen that she had incurred a late payment fee shortly before the October 2018 increase. But having also seen Miss K's credit report, I agree that on balance there's enough evidence to suggest that these increases were likely affordable for Miss K.

#### *Fourth credit limit increase*

In August 2019 NewDay increased Miss K's credit limit to £3,300. Again, I think it would have been proportionate for NewDay to have checked Ms K's income and to have taken steps to find out more about Miss K's committed expenditure and living costs. I say this having seen that Miss K was continuing to make regular use of the cash withdrawal facility. But also, and as noted by our adjudicator, Miss K took out a loan with NewDay at around this time which appears to have been used to pay off the existing balance on her card, only to then start building up a substantial balance once again. This is something I would have expected NewDay to be aware of. Since the last credit limit increase Ms K's unsecured debt had also quadrupled. I've also seen that in July 2019 Ms K had taken out a car loan that was due to repaid over 60 months – which is a significant additional financial commitment to have taken on.

Taking all of these issues into account, I agree with our adjudicator that NewDay ought not to have increased Miss K's credit limit after it gave her the increase to £3,300 in August 2019.

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

NewDay shouldn't have increased Miss K's credit limit from £2,300 to £3,300 in August 2019. NewDay therefore needs to do the following:

- Rework Miss K's account to ensure that all interest and charges should be removed from the account for balances over £2,300, being the previous credit limit increase. 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 K to arrange an affordable repayment plan for the account. Once Miss K has repaid the outstanding balance, it should remove any adverse information recorded on Miss K's credit file from 22 August 2019 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 K, 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 K's credit file from 22 August 2019.

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

### **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 K to accept or reject my decision before 10 October 2022.

Michael Goldberg

**Ombudsman**