

## The complaint

Miss T says NewDay Ltd, trading as Aqua, irresponsibly lent to her.

## What happened

Miss T applied for a credit card in November 2015. It was approved with a limit of £300 and she was given six subsequent credit limit increases by NewDay.

The first increase in May 2016 was to £1,300; the second in November 2016 to £2,500; the third in May 2017 to £3,750; the fourth in March 2019 to £5,750; the fifth in October 2020 to £6,500 and the final one in May 2021 to £7,750.

Miss T says she was constantly in debt and this card and the limit increases only made things worse. If NewDay had done proper checks it would have seen she could not afford such substantial increases in credit.

Our investigator upheld Miss T's complaint in part. He thought the lending decisions prior to March 2019 were responsible. But from that point NewDay ought to have realised Miss T was having problems managing her money. And any subsequent increases would most likely cause her financial harm.

NewDay disagreed with this assessment. It said whilst Miss T had some fees applied before the March 2019 increase, this was in line with its lending policy and so increasing the limit without any further checks was reasonable. The overall view of Miss T's account was that she used it for high retail spending but was able to maintain repayments, at times making large repayments. This pattern continued as the limit was increased further. Her account was overall well-managed with no arrears or financial difficulty markers from inception.

As an agreement was not reached the complaint was passed to me for an ombudsman's review. I reached a different conclusion to the investigator, so I issued a provisional decision to give both parties a chance to comment. An extract follows and forms part of this final decision.

### *Extract from my provisional decision*

#### *The card application and initial limit of £300*

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

*They show that Miss T declared an annual income of £4,875 and that she had £1,100 of unsecured debt. She had no defaulted accounts, no adverse public records, no payday loans and no accounts in arrears.*

*Given the amount of credit it was offering and Miss T's credit history I don't think it would*

*have been proportionate for NewDay to have carried out a fuller financial review. I think, at this stage, it was reasonable for NewDay to conclude the card and its repayments would be sustainably affordable for Miss T.*

*It follows I don't think NewDay was wrong to give Miss T the card.*

*The first credit limit increase in May 2016*

*NewDay offered Miss T a credit limit increase of £1,000 to £1,300 in May 2016. I think this was a significant increase and NewDay needed to be sure Miss T could sustainably repay a balance of £1,300 within a reasonable period of time. NewDay's submission suggests that its decision to increase the credit limit on Miss T's account was largely based on reviewing her spending and payment behaviour on both its card, and external credit. I have some concerns with this approach as it's not clear to me why a borrower who is able to successfully manage a given credit limit can then automatically be deemed, without further checks at the time of the decision, to be able to successfully manage a higher limit. And Miss T's account had only been open for six months.*

*In the circumstances of this case I don't think solely these types of checks were sufficient. I say this as NewDay was increasing Miss T's limit to around 25% of her gross annual income. This was a very significant proportion of her total declared income. I think it ought to have triggered further checks so NewDay could get the assurances it needed that Miss T would be able to sustainably repay a higher balance in a reasonable period of time.*

*To look at what better checks would most likely have shown NewDay I have reviewed Miss T's bank statements from the months prior to the limit increase. I am not saying it had to do exactly this, but it is one way for me to recreate what a fuller financial review would most likely have shown NewDay. The statements show Miss T was having significant problems managing her money: she was persistently overdrawn, not in credit once, between February and May 2016, paying interest and fees on this debt. So had NewDay carried out proportionate checks it would most likely have seen that Miss T was not in a position to be able to repay any new debt sustainably, that is without borrowing to repay (so most likely using her overdraft facility) or suffering other financial harm.*

*It follows I think NewDay was wrong to increase Miss T's limit in May 2016. I have then looked at Miss T's bank statements in the months after the limit increased. Her finances show no sign of improvement as she remains persistently overdrawn. It follows I find NewDay cannot argue it was responsible to continue to increase her limit - unless it can evidence that it completed fuller financial checks than it has currently submitted that demonstrate Miss T was in fact managing her repayments sustainably. In the current absence of any such information I find all subsequent limit increases were irresponsible. By March 2019 NewDay had increased Miss T's limit to in excess of her annual salary, surely a warning bell that the repayments Miss T was managing to make were not sustainable.*

*So I think NewDay, as a responsible lender, should have would have realised any additional credit beyond the initial limit would not be sustainably affordable for Miss T.*

*This means Miss T went on to pay interest and charges on six advances of credit that shouldn't have been provided to her. So she has lost out as a result of what NewDay did wrong. And if my final decision is to uphold Miss T's complaint NewDay will need to put things right.*

*Both parties responded before the deadline of 9 September 2022, so I can issue the final decision now. NewDay confirmed it had nothing further to add. Miss T wanted to let us know*

after being on a payment plan for some time, she transferred her remaining balance to a new card and the Aqua account is now closed.

### **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.

Our approach to unaffordable/irresponsible lending - including all the relevant rules, guidance and good industry practice - is set out on our website and I have followed it here.

NewDay is required to lend responsibly. It needed to conduct checks to make sure that the credit facilities it was giving to Miss T were affordable and sustainable. Such checks need to be proportionate to things like the credit limits it offered Miss T, how much she had to repay (including interest and charges) each month, her borrowing history with it and what it knew about her circumstances. But there is no set list of checks it had to do.

This means to reach my decision I need to consider if NewDay carried out proportionate checks at the time of Miss T's card application and each limit increase; if so, did it make fair lending decisions based on the results of its checks; and if not, what better checks would most likely have shown. I also need to think about, bearing in mind the circumstances at the time of each additional advance in credit, whether there was a point at which NewDay ought reasonably to have realised it was increasing Miss T's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit.

I set out in my provisional decision why I thought NewDay should have stopped lending to Miss T after the initial £300. As neither party sent in any comments disagreeing with this conclusion, or any new evidence for me to consider, I have no reason to change the findings or decision I reached. With regards Miss T's comment that she no longer holds a balance with NewDay, I will reflect this in the redress section that follows.

In summary, I find NewDay was wrong to give all six credit limit increases to Miss T.

### **Putting things right**

NewDay should:

- rework Miss T's NewDay account to ensure that from May 2016 interest is only charged on the first £300 outstanding, all late payment and over limit fees should also be removed;
- there is already no outstanding balance and the effect of all adjustments will result in Miss T having overpaid - the overpayments should be returned to Miss T along with 8% simple interest\* on the overpayments from the date they were made until the date of settlement; and
- amend Miss T's credit file to remove any adverse information recorded from May 2016 to date.

\*HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Miss T a certificate showing how much tax it's taken off if she asks for one.

### **My final decision**

I am upholding Miss T's complaint in part. NewDay Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 22 September 2022.

Rebecca Connelley  
**Ombudsman**