

The complaint

Ms B complains that NewDay Ltd acted irresponsibly when they agreed to provide her with two credit card accounts and subsequently increased her credit limits.

What happened

Ms B applied to NewDay for a Marbles Classic branded credit card in March 2016. NewDay assessed and agreed her application. They provided a credit card account with an initial limit of £450.

NewDay wrote to Ms B offering and then applying the following limit increases:

- Increase to £850 offered July 2016 and made available September 2016;
- Increase to £1,100 offered and marked in January 2017;
- Increase to £1,600 offered and marked in May 2017.

Ms B contacted NewDay in September 2017 requesting a further limit increase. NewDay agreed to increase Ms B's limit to £2,350.

Ms B also applied to NewDay for their Aqua Classic branded credit card in May 2017. NewDay assessed and agreed her application. They provided a credit card account with an initial limit of £300.

NewDay wrote to Ms B in March 2018 offering to increase her Aqua credit card limit to £600. The new limit was marked on her account in May 2018.

In February 2021, Ms B wrote to NewDay to complain. She said they'd leant money to her at a time when she couldn't afford it. She said she had other credit obligations at the time and NewDay's actions meant she couldn't afford to repay the borrowing and it adversely impacted her credit file.

Ms B said this limited her employment opportunities and caused her distress. She wanted NewDay to write off interest and remove adverse information from her credit file.

NewDay responded to Ms B's complaint in April 2021. They didn't agree they'd acted irresponsibly when they agreed to provide credit cards and limit increases. NewDay said their decisions were based on information Ms B had provided in her application(s) together with information provided by credit reference agencies. They also took account of how she'd used her account(s) with them. Ms B wasn't happy with NewDay's response to her complaint. So, she referred matters to this service.

Having considered all the available information, our investigator thought NewDay hadn't acted fairly. She thought NewDay's decision to give Ms B a Marbles card account was reasonable together with their decision to increase Ms B's credit limit in September 2016. But she didn't think NewDay's decisions to increase Ms B's Marbles account limit further in January, May and September 2017 were made responsibly.

Our investigator also thought NewDay's decision to provide an Aqua card account to Ms B in May 2017 was made reasonably. But she didn't think NewDay had acted reasonably when they agreed to increase the Aqua card account limit to £600 in May 2018.

Our investigator thought NewDay should refund any interest they'd charged on Ms B's Marbles account in respect of any amount owed above £850 from January 2017. She also thought NewDay should refund any interest they'd charged on Ms B's Aqua account in respect of any amount owed above £300 from May 2018. Where this resulted in any overpayment, she thought Aqua should add 8% simple interest.

NewDay didn't agree with our investigator's findings. In respect of Ms B's Marbles account, they said the only negative information reported was one over-limit fee and one payday loan. They didn't agree the operation of Ms B's account gave cause to complete further checks and tests. They thought the same applied for Ms B's Aqua account.

As an agreement couldn't be reached, Ms B's complaint has been passed to me to consider. In doing so, I reached a different outcome to that of our investigator. Because of that, I issued a provisional decision on 24 August 2022 – giving both Ms B and NewDay the opportunity to respond to my findings below before I reach a final decision.

In my provisional decision, I said:

The rules and guidance relevant at the time NewDay provided Ms B with the credit cards were set by the Financial Conduct Authority (FCA) in the Consumer Credit Sourcebook (CONC). These required NewDay to carry out an assessment using reasonable and proportionate checks to determine whether Ms B could afford to repay the credit cards in a sustainable way. Those checks needed to be borrower focussed and consider whether making the repayments could result in financial difficulties for Ms B.

This service believes that any checks needed to consider Ms B's personal circumstances and would usually need to be more thorough:

- the lower a consumer's income; and
- the higher the amount due to be repaid; and
- the longer the term of the debt; and
- the greater the number and frequency of debts.

Conversely, a less detailed affordability assessment, without the need for verification, is far more likely to be fair, reasonable, and proportionate where the amount to be repaid is relatively small, the financial situation appears stable, and the debt is for a relatively short period.

When Ms B first applied for a Marbles card, her application showed she had an income of £23,000 and existing debts of £3,400. No adverse information was reported on her credit file including defaults, late payments, arrangements or arrears. Based upon the information available to NewDay, I don't think there was anything to prompt further checks or tests in assessing Ms B's application. So, I think NewDay's decision to provide a Marbles card with an initial limit of £450 was reasonable.

When NewDay offered to increase the limit on Ms B's Marbles account to £850, this was just four months after her original application. She'd exceeded her limit on one occasion and promptly adjusted this. No payments had been missed or been late and although her reported debt balances had risen, the total was not at a level that might cause concern. And as nothing adverse had been reported, I think NewDay's decision to apply the higher limit was reasonable here.

Following this increase, Ms B's account balance rose fairly quickly to utilise the new limit. It also appears she was mainly making minimum repayments. The debt balances reported to NewDay by the credit reference agencies rose to more than double that reported when the account was first opened. There was also evidence Ms B was regularly utilising payday loans. Given this information and recognising Ms

B's original application information was now 10 months old, I think there was enough to prompt NewDay to complete further checks and tests before offering to increase Ms B's limit further in January 2017.

I've considered what those test and checks may have revealed. Ms B has provided a copy of her credit file. This shows details of all credit facilities recorded over the past six years. The report shows Ms B had applied for, and utilised pay day loans on at least nine occasions during the seven months prior to January 2017 for amounts between £50 and £400. I think this, together with the fact Ms B was making mainly minimum payments and her personal debt had increased to almost £7,000, was enough to suggest her financial situation wasn't entirely stable. And I believe, had a responsible lender questioned Ms B at the time and established the full picture, they wouldn't have chosen to increase her limit further.

Ms B's credit file shows she continued to use Payday loans during 2017 and early 2018. A further nine loans for amounts between £150 and £1,425 were recorded in addition to other borrowings. By July 2017, Ms B's debts had risen to a peak of £18,000. I think this reinforces the suggestion that her financial situation may not have been stable. Ms B told this service she was utilising different cards and loans to fund her debt repayments. So, I think her ability to sustainably repay her debts appeared to be very limited.

NewDay have suggested the information reported to them showed that Ms B only had one payday loan. While I see why they might think that, this only suggests she had one reported loan outstanding at any time. But it appears Ms B was regularly taking new loans each time one expired, and this was what was reported on her credit file. As I've said above, I think further checks and tests may well have revealed that to NewDay.

Having considered all of this, had further checks been completed and a fuller picture been established, I don't believe NewDay's decision to increase Ms B's limit further would've been considered responsible until they could be satisfied her financial situation had stabilised. And as she continued to apply for and use payday loans, I don't think the subsequent limit increases were appropriately provided either.

As regards Ms B's application for an Aqua card, given both accounts are provided by NewDay, I'd have expected them to have had full visibility of Ms B's total indebtedness with them, together with the regular data provided by the credit reference agencies. So, given I've concluded limits shouldn't have been increased on her Marbles account, I also don't think it was appropriate for NewDay to agree to provide the Aqua card.

In summary, I think NewDay's decision to provide Ms B with a Marbles card was reasonable, together with the limit increase in September 2016. But I don't think NewDay acted responsibly when they agreed subsequent increases or provided the Aqua card. So, I intend to ask NewDay to refund Ms B's Marble account with all interest, charges and fees applied for any amount above £850 from the point the new limit of £1,100 was applied in January 2017. I also intend to ask NewDay to refund all interest charges and fees applied to Ms B's Aqua account.

Where the refunds result in an overpayment having been made by Ms B, I intend to ask NewDay to pay interest on that of 8% simple for the period of the overpayment. Once interest has been refunded, if a debt remains, I intend to ask NewDay to agree an affordable and sustainable repayment plan with Ms B. Ms B has benefitted from the money she borrowed, so I believe she should be asked to repay what she owes. However, I don't think Ms B's credit file should be penalised by NewDay's mistakes here. So, once the borrowing has been repaid, I intend to ask them to remove any adverse information reported.

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.

Ms B responded accepting the recommendations in my provisional decision. NewDay said they had nothing further to add. So, I've no reason to vary from my findings above.

My final decision

For the reasons set out above, I uphold Ms B's complaint

I require NewDay Ltd:

- to refund all and any interest, charges and fees to the Marbles account in respect of any balance owed above £850 from when they increased Ms B's limit to £1,100 in January 2017; and
- to refund all interest and any charges and fees to the Aqua account from when it was first opened; and
- to amend the monthly balances reported on Ms B's credit file to reflect these refunds; and
- to pay 8% interest† on any overpayment from the date of payment until the date of settlement, if the effect of refunding all interest, fees and charges results in a credit balance being owed to Ms B; and
- where an amount is still owed by Ms B, to agree an affordable and sustainable repayment plan for that amount; and
- to remove any current or subsequent related adverse information from Ms B's credit file once the outstanding balances have been repaid.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 12 October 2022.

Dave Morgan
Ombudsman