

The complaint

Mrs D says NewDay Ltd, trading as Aqua, irresponsibly lent to her.

What happened

Mrs D applied for a card in July 2018. She was approved and given a £300 limit. Her credit limit was never increased.

Mrs D says NewDay should never have given her this unaffordable credit, her credit score was poor and she had other debts. She was self-employed without any stable income and NewDay never asked for bank statements or tax returns. She wants NewDay to refund all interest and charges, plus statutory interest, write-off her existing balance, stop the debt recovery and remove any negative information from her credit file.

Our adjudicator did not uphold Mrs D's complaint. He said NewDay's checks were proportionate and did not show any indications the card wouldn't be sustainably affordable for Mrs D. He also felt NewDay had responded fairly when Mrs D contacted it to ask for help as her financial circumstances had changed.

Mrs D disagreed with this assessment and asked for an ombudsman's review. She said she already had a loan for £1,900 and she had no guaranteed income - what she declared at application was only a forecast. NewDay did not take into account that as she was self-employed she was a higher risk and so do better checks.

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 Mrs D were affordable and sustainable. Such checks need to be proportionate to things like the credit limit it offered Mrs D, 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 Mrs D's card application; if so, did it make a fair lending decision based on the results of its checks; and if not, what better checks would most likely have shown. And finally, did it act unfairly and unreasonably towards Mrs D in any other way.

When Mrs D 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 Mrs D declared that she was employed with an annual income of £16,518 and that she had £1,900 of unsecured debt. She had no defaulted accounts, no adverse public records, and no accounts in arrears.

Mrs D says NewDay ought to have done more as she was self-employed, but this is not what she declared when she applied. It seems her employment status changed after she opened the account. Given the amount of credit it was offering and Mrs D'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 Mrs D.

It follows I don't think NewDay was wrong to give Mrs D the card.

And I don't think NewDay acted unfairly towards Mrs D in some other way. I can see she asked it for assistance in January 2019. After Mrs D completed an income and expenditure form NewDay agreed an affordable payment plan with her, freezing interest and charges when it began. But Mrs D did not make the agreed repayments and NewDay sold the debt in time. I find this to be reasonable in the circumstances.

My final decision

I am not upholding Mrs D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 19 December 2022.

Rebecca Connelley
Ombudsman