

The complaint

Mr S has complained that NewDay Ltd trading as Aqua irresponsibly lent to him.

What happened

Mr S opened a credit card account with NewDay (trading as Aqua) in April 2018. His credit limit was £250. The limit was never increased.

Mr S suggests that NewDay shouldn't have allowed him to open an account. Mr S says he had 'zero income' and had a gambling problem which had caused him financial difficulties. He says if NewDay had made proportionate and appropriate checks on his circumstances it wouldn't have lent to him.

Our investigator thought that Mr S's complaint should not be upheld. They thought that on the evidence available NewDay had not done anything wrong.

Mr S disagreed and provided some more evidence, but this didn't change our adjudicator's view. As Mr S disagreed the case has been passed to me to make a 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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when I have considered Mr S's complaint.

NewDay needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr S could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and Mr S's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

Certain factors might point to the fact that NewDay should fairly and reasonably have done more to establish that any lending was sustainable for Mr S. These factors include things like understanding Mr S's income, the total amount Mr S borrowed, and the length of time Mr S had been indebted. There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

When Mr S opened his account NewDay conducted a creditworthiness assessment. This included a review of information from credit reference agencies and information provided by Mr S about his income and circumstances. NewDay told us there were no signs of financial difficulties based on the checks it did.

I think these checks were proportionate in the circumstances. And when I've reviewed the checks I think they showed that the agreement was likely to be affordable for Mr S. While the information supplied by the credit reference agency showed that Mr S had defaulted on another credit agreement nearly five years earlier, there was nothing to suggest he was experiencing difficulties at the time of application. He had about £2,600 in active debt elsewhere. There were no signs of current arrears, CCJs, payday loans or bankruptcy. Mr S's income indicated he'd likely have enough disposable income to meet his repayments. The opening limit was low at £250 and so the monthly repayments would have also been low. So, on the information available, I don't think NewDay acted irresponsibly when it approved the credit card.

Mr S has provided evidence of the financial difficulties he was in at the time which he says is evidence NewDay shouldn't have lent to him. This includes a letter from solicitors regarding non-payment of a catalogue shopping account. However, this was from August 2019 which is 18 months *after* he opened the credit card complained of. Similarly, Mr S has supplied evidence that he defaulted on his current account in August 2018. Again, this was six months *after* he took out the credit card, so it wasn't something NewDay would have seen when it did its checks.

Mr S also provided evidence that he was taken to court about another debt in May 2017 – about nine months *before* he took out the credit card. It's not clear that any order was made as a result of that debt. I would ordinarily expect to see this in a credit report if it hadn't been settled informally. Mr S explains that some of his debts were removed from his credit file (presumably as a result of upheld complaints about them) but I don't know when this was, so I can't say that NewDay ought to have seen this when it did its own checks. A copy of Mr S's credit file which includes data from before he took out the credit card does not show anything of concern in the months leading up to him taking the credit.

Although I don't doubt that Mr S got into financial difficulty I can't fairly say that NewDay's checks weren't appropriate or proportionate or that its decision to lend to Mr S wasn't fair. So, I can't fairly say NewDay did anything wrong or that Mr S lost out as a result of anything NewDay might have done wrong.

My final decision

I do not uphold Mr S's complaint. It follows that NewDay Ltd, trading as Aqua, does not need to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 February 2023.

Sally Allbeury
Ombudsman