

The complaint

Mrs H complains that NewDay Ltd trading as Aquacard was irresponsible in its lending to her.

What happened

NewDay provided Mrs H with a credit card. She says that between 2017 and 2019 she was struggling financially which would have been seen from her defaults. She says that NewDay shouldn't have provided her with any further credit after she cleared her balance. She says her credit limit was increased on three occasions between 2020 and 2023 and she has got into more debt trying to meet the minimum payments.

NewDay issued a final response in June 2023. It said that it had identified a Aquacard account opened in July 2013. It said that it wasn't able to consider the complaint regarding the account opening as this happened more than six years before the complaint was raised. It said that Mrs H's credit limit was increased on three occasions – in March 2014, August 2021 and December 2021 – and that it was decreased in August 2018. It said it was confident that the limit increases took place in line with its policy and that it completed proportionate checks. However, taking into account information provided by Mrs H it upheld her complaint from the limit increase in March 2014 and provided details of the refunds that would be applied to her account.

Mrs H didn't think the offer made by NewDay was acceptable and said while she hadn't accepted the offer it had taken some of the refund from her account. She said NewDay closed her account, and she still has a large debt to pay.

Our investigator explained that following the case being referred to this service, NewDay had explained that the refund calculations it had previously quoted to Mrs H were incorrect. NewDay confirmed the proportionate interest refund should be £950.42 (not £610.47) meaning a further reduction of the outstanding balance was due. It said it hadn't yet refunded the late fees refund of £252 (previously said to be £240) and it should've paid £360 (not £384) for the over limit fees, (but it wouldn't be looking to reclaim the £24 overpayment). NewDay apologised for the mistakes made in its calculations and offered to pay Mrs H £50 compensation in addition to making the adjustments to her account.

Our investigator noted the refund breakdown and said that NewDay had confirmed that following the refund Mrs H would still have a balance outstanding. He thought the £50 compensation offered for the inconvenience caused by its mistakes in the calculations was reasonable and said Mrs H could have this applied to her outstanding balance or paid to her directly.

Mrs H didn't accept NewDay's offer and our investigator's view. She said that NewDay had only refunded her what she had already paid to it and deducted it from a balance she should never have been given. She thought her outstanding debt should be written off.

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 general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website. I have had this approach in mind when considering this complaint.

In this case, NewDay upheld Mrs H's complaint from the credit limit increase in March 2014. While I understand that Mrs H feels her debt should be written off, when a complaint about irresponsible lending is upheld, we wouldn't usually expect the business to write off the debt, as the customer, in this case Mrs H, has had the benefit of the money. We would instead expect it to refund all fees and charges and proportionate interest relating to the additional credit provided, from the point at which the complaint has been upheld.

NewDay has provided details of the refunds for the interest and charges. It initially provided incorrect amounts for the refunds but then revised these amounts. It isn't our role to audit the refund amounts but instead to set out what we would expect the refunds to include. In this case I agree with the approach set out in NewDay's final response letter being to refund all fees and charges from March 2014 and proportionate interest - that being the additional amount of interest paid as a result of the March 2014 credit limit increase.

NewDay has confirmed that following the above refunds, Mrs H will still have a balance outstanding on her account. It has said that once this has been cleared Mrs H should contact it and it will remove any adverse information reported on her credit file after the first credit limit increase. This is in line with what we would expect to happen.

As NewDay made a mistake in the initial refund calculations it provided to Mrs H, I agree that it is reasonable to pay her compensation in acknowledgement of any upset or inconvenience this caused. NewDay offered to pay Mrs H £50 and I find this reasonable. NewDay has said that the compensation can be applied to Mrs H's outstanding balance or sent to her bank account (subject to details being provided).

Putting things right

NewDay upheld Mrs H's complaint from the March 2014 credit limit increase. It should, as it set out, refund all fees and charges from March 2014 and proportionate interest - that being the additional amount of interest paid as a result of the March 2014 credit limit increase. I understand that payments have been made to Mrs H's account.

Once the balance has been cleared NewDay should, as it has acknowledged, remove any adverse information from Mrs H's credit file from March 2014 onwards.

NewDay should also, as it has offered, pay Mrs H £50 compensation for any upset caused by providing her with the incorrect refund amounts. This can either be used to reduce Mrs H's outstanding balance or paid directly to her.

My final decision

My final decision is that NewDay Ltd trading as Aquacard should take the actions set out above, as it has offered, in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 15 January 2024.

Jane Archer
Ombudsman