

The complaint

Mr S complains that NewDay Ltd was irresponsible in its lending to him.

What happened

Mr S first raised his complaint in 2019 and says that he didn't receive a response from NewDay at that time and when he raised this again NewDay said it wouldn't reopen his complaint. His complaint is that NewDay provided him with a Laura Ashley credit card even though he had spent the maximum on his Aqua credit card and had told NewDay he had a problem with gambling.

In response to Mr S's referral of his complaint to this service, NewDay looked again at Mr S's accounts. Regarding his Aqua credit card, it said the fourth and subsequent credit limit increases may not have been suitable. Therefore, it upheld his complaint from the fourth credit limit increase on 9 August 2016 on balances over £3,000. It offered to refund the charges and proportionate interest (along with interest if overpayments had occurred) and to amend Mr S's credit file once the balance had been repaid.

Regarding Mr S's Laura Ashley account NewDay said that it had upheld his complaint in 2019 and refunded Mr S the interest and over limit charges on his account but it hadn't refunded the cash transaction fees and hadn't taken action to stop any further interest and charges being applied. Therefore, it upheld Mr S's complaint regarding his Laura Ashley account and said it would refund the remaining interest and fees applied before it sold the account. It said that if there was a balance outstanding with the debt purchaser the refund would reduce this and if this resulted in an over payment it would calculate interest at 8% per year on the overpaid amount. It said that once the balance had been repaid it would ask the debt purchaser to remove any adverse information applied to Mr S's credit file.

Our investigator thought the offer made by NewDay was reasonable. Mr S didn't agree. Mr S said that NewDay had acknowledged that he made it aware of his gambling before it provided him with the Laura Ashley credit card and so he thought the outstanding balance on this account should be written off.

Our investigator noted our usual approach to irresponsible lending complaints and that we can recommend that a business does more in certain circumstances. But in this case, he didn't think NewDay was required to write off the outstanding balance on Mr S's account.

As a resolution hasn't been agreed, this case has been passed to me, an ombudsman, to issue 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.

Mr S first raised his complaint in 2019 and says that he didn't receive a response from NewDay at that time. Having looked through the information provided; I can see that Mr S

was sent a response to his complaint dated 20 June 2019. This went to the address we have on file for Mr S, so while I cannot say why Mr S didn't receive this at the time, I accept that NewDay did respond to his complaint.

In response to Mr S's referral of his complaint to this service, NewDay looked again at Mr S's accounts. Regarding his Aqua credit card, it said the fourth and subsequent credit limit increases may not have been suitable and provided an offer of redress to reflect this. Mr S accepted this part of NewDay's offer and so I haven't considered this any further.

Regarding Mr S's Laura Ashley account NewDay explained the actions taken in 2019 and that it recognised further action was needed. Therefore, it explained that it would refund the remaining interest and fees applied to the account before it was sold (along with interest on any overpayments) and amend Mr S's credit file once the balance had been repaid.

I have considered the offer made by NewDay and it is in line with our usual approach to complaints about irresponsible lending. But as our investigator has explained, we can in certain circumstances require the business to take further action. Mr S has said that because NewDay provided him with the Laura Ashley credit card after he had told it of his gambling problem it should now write off the outstanding balance. I have considered this but, in this case, I do not require NewDay to take this action.

I say this because having looked through Mr S's account statements while there are a few cash withdrawals the main use of the money wasn't for this or for activity that appears to be linked to gambling. So, it appears that Mr S did have the use of the money that was provided through the lending for purposes other than gambling. I have considered Mr S's comment that NewDay couldn't say he hadn't used his wages for gambling and his credit card for other essential spending. But I do not find that the evidence provided supports this. Taking this into account I do not find in this case I can say that NewDay is required to write off the balance. Therefore, I find that the offer made by NewDay to refund all interest and charges and amend Mr S's credit file once the balance has been cleared is reasonable.

Putting things right

NewDay Ltd should, as it has offered, take the following actions in regard to Mr S's accounts:

Laura Ashley account

Refund all remaining interest and cash fees to Mr S. This will be applied to Mr S's account and if this results in an overpayment, NewDay should calculate a simple interest payment at 8% a year on the overpaid amount.

If the outstanding balance on this account hasn't yet been paid Mr S can contact NewDay once this has happened, and it will contact the debt purchaser to remove any adverse information that has been reported in Mr S's credit file.

Aqua account

Refund proportionate interest and charges from the fourth credit limit increase in August 2016. If this results in an overpayment, NewDay will calculate a simple interest payment at 8% a year on the overpaid amount.

If the outstanding balance on this account hasn't yet been paid Mr S can contact NewDay once this has happened, and it will contact the debt purchaser to remove any adverse information that has been reported in Mr S's credit file.

My final decision

My final decision is that NewDay Ltd 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 Mr S to accept or reject my decision before 15 February 2024.

Jane Archer
Ombudsman