

The complaint

Mr R, through a representative, says NewDay Ltd, trading as Aqua, irresponsibly lent to him.

What happened

Mr R took out a credit card from NewDay in May 2015. He was given a credit limit of £250. This was then increased to £650 in August 2015 and to £1,250 in April 2016.

Mr R says NewDay's checks were not adequate and had they been the lender would have seen he was already struggling financially.

NewDay says adequate checks were completed to ensure the credit was affordable for Mr R.

Our investigator did not uphold Mr R's complaint. She said the checks were proportionate for when the card was opened. Due to the limited information she said she cannot know if the checks completed for the limit increases were proportionate. But from looking at Mr R's bank statements she concluded NewDay could fairly have made the same lending decisions had it completed proportionate checks.

Mr R disagreed and asked for an ombudsman's review. He said he did not have the disposable income the investigator stated. His rent alone was almost half his income. After his other expenses he was having to rely on his overdraft each month. So had NewDay reviewed his bank statements, or used national statistics to estimate his outgoings, it would have seen he could not afford the limit increases. Also, prior to the second increase he missed a payment in December 2015 and was late paying in February 2016.

I reached the same conclusion as the investigator but I made different findings in places so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to send in any comments or additional information by 14 May 2024.

Extract from my provisional decision

When Mr R applied for the credit card NewDay asked about his gross annual income. It carried out a credit check to understand his credit history and existing credit commitments. I think these checks were proportionate given the £250 limit NewDay allocated.

NewDay has shared the results of these checks and I can't see they showed anything that ought to have concerned the lender. Mr R declared an income of £16,000 and the credit check showed he had just £100 of debt elsewhere on one active account, which was up-to-date. There was a default but it was from almost two years ago so I wouldn't find this alone would be a reason to decline Mr R's application.

When NewDay increased Mr R's limit it has told us it reviewed his account history and his external credit management. But in August 2015 the limit was over doubling so I am not persuaded reviewing solely how Mr R had managed a lower limit to date gave NewDay the required assurances that he could sustainably afford a higher limit. He had only been an

accountholder for around three months when the decision was made. So NewDay had limited information on his account management.

I think at the least NewDay ought to have verified Mr R's income. Had it done so it would have seen it was as he declared at the time of application. And its checks showed his external debt levels remained low - £235 in total. So even if NewDay had completed better checks I think it could reasonably have made the same lending decision. At this stage I do not find it would have been proportionate to complete a more in depth financial review.

In April 2016, when NewDay increased Mr R's limit to £1,250, I again think it ought to have completed better checks. This time as well as verifying Mr R's income I think it ought to have taken steps to understand his outgoings. I say this as he did not have a clean payment history - late fees were applied to his account in December 2015, January 2016 and March 2016. So I think NewDay ought to have checked that this was not as a result of financial strain. In cases like this we look at bank statements from the three months prior to lending. I am not saying NewDay had to do exactly this but it is a reliable way for me to understand what better checks would most likely have shown.

Here, had NewDay done this, I think it could reasonably have made the same lending decision. I can't see they showed conclusively Mr R was under financial strain. I say this as there were none of the typical indicators of financial difficulties: he was not persistently reliant on his overdraft facility, only using it for a few days prior to receipt of his salary each month; he was not using payday loans; and there were no returned direct debits. Taking into account his income minus his fixed outgoings (car finance, credit card repayments, rent, insurance and utilities) I find Mr R had sufficient disposable income to cover his variable living costs such as transport and groceries, as well as this limit increase. I do not find Mr R's approach of asking us to now consider actuals for some of his outgoings (such as rent) combined with ONS data for others to be reasonable when his actuals are available.

He also often made more than the minimum payment on his Aqua account and his other active accounts were not in arrears. I note there had been an increase in his external debt, but it seems this was for a car finance agreement and so it was reasonable not to have been a red flag.

Given NewDay's second limit increase would cost Mr R around £62.50 a month (for him to repay the full limit over a reasonable period of time) I don't think NewDay was wrong to offer this increase, and it could fairly have made the same decision had it completed better checks.

It follows I do not currently think NewDay lent irresponsibly to Mr R.

Neither party responded to my provisional 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.

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.

As the parties did not send any comments or new evidence in response to my provisional decisions, I have no reason to change the findings or outcome I reached.

It follows for the reasons set out above I do not think NewDay lent irresponsibly to Mr R.

My final decision

I am not upholding Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 12 June 2024.

Rebecca Connelley
Ombudsman