

The complaint

Mr R complains that NewDay Ltd was irresponsible to lend to him.

What happened

Mr R had eight NewDay credit cards as follows:

- Aqua – opened on 20 October 2014;
- Burton – opened on 26 June 2016;
- Topman – opened on 28 June 2016;
- Marbles – opened on 14 December 2016;
- Pulse – opened on 10 January 2018;
- Opus – opened on 5 February 2018;
- Fluid – opened on 14 May 2018;
- Debenhams – opened on 19 May 2018.

Mr R did not pursue complaints about the Aqua, Burton, Topman and Marbles cards.

NewDay fully upheld Mr R's complaint about his Fluid and Debenhams accounts and partially upheld the complaint about the Pulse account - from when it increased the credit limit in September 2018. It did not uphold Mr R's complaint about the opening of the Pulse account, nor the Opus account, and there were no credit limit increases on the Opus card.

As such, this decision will consider whether NewDay made a fair lending decision when it approved the opening of Mr R's Pulse and Opus accounts:

<u>Card</u>	<u>Opened</u>	<u>Credit Limit</u>
Pulse	10 Jan 2018	£900
Opus	5 Feb 2018	£900

Mr R says the lending was irresponsible as he couldn't afford the repayments. He says the debt collection process has caused him stress and severe mental health issues.

NewDay said it asked Mr R about his income and expenditure and checked his credit file. It says it found no adverse information and the applications met its criteria.

Our investigator did not recommend the complaint should be upheld. He was satisfied that NewDay carried out reasonable checks for both credit cards and that there was nothing to indicate the lending was unaffordable.

Mr R responded to say that reasonable checks should have found he already had 12 credit cards when he applied for the new lending, as well as a loan in December 2017. Mr R added that a review of his bank statements would have shown he was consistently overdrawn with multiple loans from friends and short-term lenders. He also said NewDay should have verified his declared income as it was based on a forthcoming promotion that was delayed.

Provisional findings

I issued a provisional decision to Mr R and to NewDay on 3 May 2024 and I've summarised my findings below:

Pulse Card

I wasn't satisfied that NewDay's checks went far enough. I said that because:

- A credit card is a long-term, open-ended credit facility and NewDay needed to ensure it was sustainably affordable;
- I couldn't see that NewDay verified Mr R's declared income or expenditure;
- It should have realised that the information about Mr R's debt appeared incorrect when it said he had four credit accounts with unsecured debt of £6,400:
 - He had four active NewDay accounts, so it seemed unlikely he had no other credit accounts at the time;
 - Mr R's balance on his Aqua card alone was around £7,500 at the time;
 - NewDay had other records from Mr R's Aqua card that showed Mr R's total debt was actually over £20,000 in the lead up to the Pulse application;
- NewDay also had information that showed Mr R had been using short-term lending, including at least one loan in the last three months.

So, I had a look at Mr R's bank statements from the time as a reasonable proxy for what proportionate checks were likely to have shown:

- Mr R was earning less than he'd declared at around £2,000 per month;
- He paid roughly £450 per month to his local council;
- There were seven other credit cards to which he was repaying over £700 per month;
- Mr R took out a £3,000 loan in December for which monthly repayments were £168;
- He had repaid a short-term loan at the end of October 2017;
- Monthly direct debits came to at least £130 per month;
- About £15 per month was spent on overdraft interest;
- Cash withdrawals averaged around £400 per month;
- He appeared to be borrowing money from family members;
- Mr R was often at, or over, his overdraft limit before his monthly salary was paid.

I found Mr R was unlikely to be able to sustainably repay further credit because:

- He was already committing around 45% of his income to credit repayments;
- Mr R was only paying around the minimum repayment towards existing credit cards;
- He was left with very little disposable income each month;

In summary, I found Mr R was showing clear indications that he was already struggling financially, and I did not consider NewDay made a fair lending decision.

Opus Card

Mr R applied for the Opus card less than a month later and NewDay's own records show his debt had increased to £23,000. So, it follows that I also found it was irresponsible to have approved the Opus card, although I couldn't see NewDay acted unfairly in any other way.

Both Mr R and NewDay responded to say they accepted 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.

As both parties accepted my provisional decision, I see no reason to depart from it.

My final decision

My decision is that I uphold this complaint. NewDay Ltd should:

- Rework the accounts removing all interest and charges that have been applied:
 - If the rework results in a credit balance, this should be refunded to Mr R with 8% simple interest* calculated from the overpayment date to the settlement date. NewDay should also remove adverse information from Mr R's credit file;
 - If after the rework there's still an outstanding balance, NewDay should arrange a repayment plan with Mr R for the remainder. Once Mr R has paid the balance(s), adverse information should be removed from his credit file.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Mr R a certificate showing how much tax it's taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 21 June 2024.

Amanda Williams

Ombudsman