

The complaint

Ms M has complained that NewDay Ltd, trading as Aqua ("NewDay"), irresponsibly granted her a credit card account, and subsequently increased the credit limit, which she couldn't afford to repay.

What happened

Ms M took out a credit card with NewDay on 13 April 2018, with a credit limit of £450. There were credit limit changes as follows:

- March 2019 – decrease to £250
- July 2019 - £600
- February 2020 - £1,350

The account was closed in March 2024.

Ms M said she thought NewDay hadn't carried out appropriate checks before granting the credit card, and she was already in financial difficulty. She said that she would like NewDay to refund the interest and charges she paid.

Ms M complained to NewDay, but it said that it had conducted appropriate affordability checks, and told Ms M that it did not uphold her complaint. She then brought her complaint to this service. Our investigator looked into it, and thought it should be upheld in part.

NewDay didn't agree and asked for it to be reviewed by an ombudsman.

I issued my provisional decision in October 2024, in which I explained why I didn't agree with our investigator, and therefore why I didn't propose to uphold Ms M's complaint. NewDay did not respond. Ms M had made her complaint through a representative, and it initially responded to my provisional decision to say that it intended to provide further evidence. However, it has now said that it has not received this from Ms M and that I should make my final decision based on the evidence I have.

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 considering complaints about unaffordable and irresponsible lending is set out on our website, and I've taken this into account here.

I've decided not to uphold Ms M's complaint. I'll explain why.

In summary, before providing credit, lenders need to complete reasonable and proportionate affordability checks. There isn't a set list of checks required of a lender, but it needs to ensure the checks are proportionate when considering things such as the type and amount of credit being provided, the size of the regular repayments, the total cost of the credit and

the consumer's circumstances. So I've considered whether NewDay completed reasonable and proportionate checks to satisfy itself that Ms M would be able to make the repayments on the credit card account in a sustainable way.

I set out my reasoning in my provisional decision as follows:

"NewDay sent in copies of the computer records it held about Ms M's account and information about the types of checks it said it would've carried out. We asked Ms M for copies of her credit record, and bank statements for the periods leading up to the credit card and limit increases being granted, but she didn't send anything in.

NewDay told us that, when assessing applications, it bases its lending decisions on data from credit reference agencies. In the case of credit limit increases, it will also take account of historic performance of the credit card account.

Looking first at the initial granting of the credit card in April 2018, NewDay's records show that Ms M declared her annual income to be £35,000 before tax. NewDay's credit check showed that Ms M had five other credit commitments, with a total amount outstanding of £6,400, but none of these were payday loans. No accounts were in arrears, and no defaults or County Court Judgments (CCJs) were registered.

NewDay sent in details of the monthly outgoings it took into account when it granted the card. These were housing costs of around £270, payments on other credit commitments of just over £220 and essential living expenses of just over £450. It's not clear whether these were declared by Ms M or taken from credit reference checks – or a mixture of both.

Ms M sent in some information about her outgoings, but she didn't say whether this applied when she took out the card or at some later point. The details were very brief – she mentioned monthly rent of £400, car finance payments of £400 each month, total loan and credit card costs of £600 each month, and other expenses of just over £308. It's not clear whether the total loan and credit card costs included the car finance or were in addition to it.

Ms M also mentioned a monthly income of £2,000 after tax, which is broadly consistent with what's on NewDay's records.

The information provided by each party differs substantially. However, the initial credit limit of £450 was low, and therefore I think it was reasonable for NewDay to have relied on the credit reference information it obtained. So I think its checks were reasonable and proportionate.

Looking at the amount of debt Ms M had relative to her income, and taking account of the amount of her outgoings as mentioned above, I can't see an indication that Ms M was in financial difficulty. Even if I take the higher figures for outgoings provided by Ms M, I don't consider that there's enough evidence to say that the monthly payments that would've been required on a credit limit of £450 would've been unsustainable for her. So I don't think NewDay acted unfairly in granting the card.

In March 2019 NewDay reduced Ms M's credit limit to £250. It said this was due to a low affordability score. As it was a reduction in the credit available to Ms M I don't need to comment further, although I can see that there were late payment fees charged in the preceding months, and it looks as though Ms M's overall debt level had increased.

Four months later, NewDay increased Ms M's credit limit to £600. Its records show an estimated disposable income of around £1,850 each month, although this time it didn't provide any breakdown of how that was arrived at, other than that it was based on credit

reference information. In the absence of any other details it seems rather high after accounting for likely outgoings (unless Ms M's income had increased significantly, of course – although in reaching my conclusions here I have assumed not).

The credit reference information that NewDay sent in shows that it drew data from the three main agencies. Not every lender registers information with all of the agencies, so the details are not consistent across the agencies. The highest figure for Ms M's total debt was £11,750, including around £3,300 for credit card debt. It looks as though her accounts were up to date. She seems to have had ten active credit accounts.

I think it would have been reasonable and proportionate for NewDay to have carried out more detailed checks before increasing the limit at this point, given that it was only a few months after the limit had been reduced due to the affordability score. And there had previously been issues with late payment.

However, I don't have any information from Ms M, other than the outgoings that I noted above. The new credit limit of £600 was still relatively low, and from the credit reference information noted above I don't have evidence to suggest that NewDay would've found the required payments to be unsustainable had it carried out more detailed checks. So I don't think it acted unfairly in increasing Ms M's credit limit to £600 in July 2019.

The final increase in the credit limit was in February 2020, when it went up from £600 to £1,350.

NewDay said that its credit reference checks showed that Ms M had a monthly disposable income of over £1,400 at this point, but as before I don't have a breakdown of the figures used to calculate this. Again it seems rather high after taking account of likely outgoings, based on what both parties have said about those.

Our investigator highlighted Ms M's use of cash advances, as well as two occasions when she exceeded her credit limit and a missed payment in the months leading up to the increase. I agree that these are potentially of concern, and for that reason I think it would've been proportionate for NewDay to have carried out further enquiries before increasing the limit.

However, I note that Ms M exceeded the credit limit by less than £30 on each occasion, and the balance was below the limit in the following months. Otherwise, NewDay's information showed that Ms M's overall debt had increased a little further to just under £12,150, of which her credit card debt appears to be around £4,700. This doesn't seem excessive relative to her income as stated on her application (and I haven't been given any evidence to show that that had changed). The information also shows nine active accounts, so it doesn't look as though Ms M was taking out new credit. It also appears that all of Ms M's accounts were up to date when NewDay increased the credit limit.

The cash advances I mentioned above were not being taken every month, and didn't involve large amounts. I can see that there were four in the month of the credit limit increase, but looking at the balance information I don't think these can have happened before the limit was increased. So NewDay couldn't have taken those into account in reaching its decision.

As I noted above, we asked Ms M for copies of her credit history and bank statements, but she didn't send anything in. So I don't have a clear picture of her outgoings at this particular point. But on balance, and based on the information I do have, I don't think there's enough evidence to suggest that NewDay would've found that the monthly payments based on the new limit were likely to be unsustainable for Ms M. So I can't fairly say that NewDay acted unfairly in granting the increase in Ms M's credit limit.

In summary, I don't think NewDay acted unfairly in granting the credit card, or in increasing the credit limit. So I'm not proposing to uphold this complaint."

As neither party has provided any new evidence or information, I have no reason to change my conclusions. Therefore I have decided not to uphold Ms M's complaint.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think NewDay lent irresponsibly to Ms M or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've explained, I've decided not to uphold Ms M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 18 December 2024.

Jan Ferrari
Ombudsman