

The complaint

Mrs H complains that NewDay Ltd shouldn't have given her a credit card and increased the credit limit on the card. She says it acted irresponsibly and should have done more to check she could afford the account.

What happened

NewDay provided Mrs H with an Aqua branded credit card in February 2019, with a credit limit of £450. It then increased the limit as follows:

Date	Credit limit
July 2019	£750
March 2020	£1,750
October 2020	£2,000
April 2021	£3,250
December 2021	£4,500
May 2022	£5,750
September 2022	£7,250
September 2023	£8,000

In March 2024, through a law firm, Mrs H made a complaint to NewDay. She said the card had been lent to her irresponsibly and she had struggled to pay the resulting debt.

NewDay said it had done nothing wrong and that it had verified Mrs H's income before lending, through information she provided in her application and information from credit reference agencies. It said she had shown that she could manage her account so it had acted reasonably in increasing the credit limit over the years.

Mrs H referred her complaint to us. Our Investigator concluded that NewDay shouldn't have opened the account for Mrs H, given the level of income she declared on her application, the level of her existing unsecured debt, and the low level of her remaining disposable income. The Investigator recommended that NewDay rework the account to remove all interest and other charges, pay Mrs H any remaining credit balance plus interest or arrange an affordable repayment plan if a balance is remaining, and amend Mrs H's credit file.

Mrs H accepted that conclusion, but NewDay did not. It said, in summary, that the initial credit limit was relatively low and the disposable income it had estimated Mrs H to have meant she should have been able to afford the minimum monthly payments. It also said that Mrs H had made the payments to the card on time, she hadn't exceeded the credit limit, and she hadn't told it about any financial difficulties.

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.

I've also considered relevant rules – including relevant sections of the Consumer Credit sourcebook (CONC) – guidance, and good industry practice. Having done so, I've come to the same overall conclusion as the Investigator did, for much the same reasons.

In assessing Mrs H's credit card application, NewDay needed to take reasonable steps to ensure that, if it agreed to lend, it did so responsibly. In practice, this means it should have carried out proportionate checks to make sure that Mrs H could afford to repay any money it lent in a sustainable way. These checks could take into account a number of different things, such as Mrs H's income and expenditure, how she had managed borrowing in the past, and how much was being lent. There was no set list of checks NewDay had to do, but we might expect a lender to do more if, for example, a borrower's income was low and they already had a lot of existing debt or the amount being lent was high. We've explained how we consider complaints about unaffordable and irresponsible lending on our website.

NewDay has provided details of how it assessed Mrs H's credit card application and on what basis it later decided to increase the credit limit. Mrs H said on her application that her annual income was £17,000, or just over £1,200 net each month. NewDay used this, together with the data it had available and its own affordability model, to estimate that her monthly outgoings would leave her with around £85 disposable income each month. It included payments to credit commitments of £429 in its modelling and it noted that Mrs H had a debt to income ratio of around 150%. There were no late payments or defaults on her credit report.

NewDay gave Mrs H a relatively low credit limit of £450 initially and, in the circumstances, I think it carried out reasonable and proportionate checks before making its lending decision. However, having completed those checks, I don't think it made a fair and reasonable decision to lend.

While it appeared from the credit check NewDay did that Mrs H was managing her existing debts well because she was up-to-date with her payments, I consider that the level of her existing unsecured debt relative to her income should reasonably have led NewDay to have cause for concern about lending to her and in doing so increasing her indebtedness further.

In taking that view I have kept in mind the provisions of CONC, which says at CONC 5.2A.25 G:

“[...] potential indicators that the level of affordability risk arising out of the agreement may be high include circumstances where:

- (a) The total value of the customer's outstanding debts relative to the customer's income is high”

Before entering into the credit agreement or significantly increasing the amount of credit offered, NewDay needed to check that Mrs H could afford to meet her repayments within a reasonable period of time, without having to borrow further, without failing to make any other payment she had a contractual or statutory obligation to make and without the repayments having a significant impact on her financial situation.

NewDay has said that Mrs H has made the monthly payments to the credit card on time and she hasn't told it about any financial problems. However, the credit report information it has provided shows that Mrs H's revolving credit balances increased over the years she had the NewDay Aqua card from £0 in 2019 to more than £10,000 in 2024. Mrs H has said that she had to take additional borrowing in order to afford the credit card payments to NewDay and struggled to afford day to day living costs.

In all the circumstances, I consider that NewDay was irresponsible to have lent Mrs H this credit card given what it knew about her finances. It follows that I don't consider its later decisions to increase the credit limit were fair, since it shouldn't have opened the account in the first place.

I've also thought about whether considering this complaint more broadly as being about an unfair relationship under section 140A of the Consumer Credit Act 1974 would lead to a different outcome. But even if it could (and should) reasonably be interpreted in that way I'm satisfied this wouldn't affect the outcome.

Putting things right

I've concluded that NewDay was irresponsible to have opened this account for Mrs H. I think it's fair that Mrs H repays the capital she borrowed as she's had the use of that money, but she shouldn't have to pay any interest, fees or charges associated with the account. In settlement of this complaint, NewDay should:

- Rework the account removing all interest, charges and insurance premiums that have been applied from the date the account was opened.
- If the rework results in a credit balance, that credit balance should be refunded to Mrs H along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove any adverse information about the account from Mrs H's credit file.
- Or, if after the rework, there remains an outstanding balance, NewDay should arrange an affordable repayment plan with Mrs H for the remaining amount. Once Mrs H has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

* If NewDay deducts tax from this interest it must give Mrs H a certificate showing how much tax it has taken off so that she can claim a refund from HMRC if appropriate.

My final decision

My final decision is that I uphold this complaint and NewDay Ltd must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 14 April 2025.

Janet Millington
Ombudsman