

The complaint

Mr S complains that NewDay Ltd lent irresponsibly when it approved two credit cards in his name and went on to increase the credit limit.

What happened

The background to this complaint and my initial conclusions were set out in a provisional decision. I said:

In January 2019 Mr S applied for an Aqua credit card with NewDay. In his application, Mr S said he was a tenant and employed with an income of £12,204 a year. NewDay carried out a credit search and found Mr S had no recent missed payments or other adverse credit. NewDay also found Mr S owed around £100 in other unsecured debt. NewDay says it applied its lending criteria and approved a credit card with a limit of £450.

NewDay went on to increase the credit limit in stages. The credit limit was increased to £1,700 in May 2019, £3,200 in September 2019, £4,700 in March 2020, £5,450 in August 2020 and £6,450 in April 2021.

In December 2020 Mr S applied for a second credit card with NewDay. In his Fluid application, Mr S said he was renting at £330 a month and employed with an income of £18,000. NewDay carried out a credit search and didn't find any recent missed payments or other adverse credit. NewDay found Mr S owed around £7,200 to other unsecured lenders.

NewDay approved Mr S' Fluid application and issued a credit card with a limit of £450. NewDay went on to increase the Fluid credit limit to £1,450 in June 2021.

Earlier this year, Mr S complained that NewDay lent irresponsibly and it issued a final response on 18 April 2024. NewDay partially upheld Mr S complaint and said it shouldn't have increased the credit limit for the Aqua card to £6,450 in April 2021. NewDay agreed to refund all interest, fees and charges applied to Mr S' credit card on balances over £5,450 from that date. NewDay also agreed it shouldn't have increased Mr S' Fluid credit limit to £1,450 in June 2021 and agreed to refund interest, fees and charges applied to balance over £450 from that date.

Unhappy with NewDay's response, Mr S referred his complaint to this service and it was passed to an investigator. They weren't persuaded NewDay had completed reasonable or proportionate checks before increasing the Aqua credit limit from £1,750 to £3,200 in September 2019 and asked it to refund all interest, fees and charges applied to balances over £1,750 from that date. The investigator also upheld Mr S' complaint about the decision to approve the Fluid account with a credit limit of £450 in December 2020.

Aqua accepted it shouldn't have approved Mr S' Fluid credit card application in December 2020 and agreed to the settlement recommended concerning that account. But NewDay didn't agree it lent irresponsibly when increasing the credit limit on Mr S' Aqua account, except for the final credit limit increase to £6,450 in April 2021. As Aqua didn't accept the investigator's view, Mr S' complaint has been passed to me to make a decision.

What I've provisionally 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.

Before agreeing to lend or increasing the credit limit, the rules say NewDay had to complete reasonable and proportionate checks to ensure Mr S could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;*
- The total sum repayable and the size of regular repayments;*
- The duration of the agreement;*
- The costs of the credit; and*
- The consumer's individual circumstances.*

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

When Mr S applied for his Aqua credit card he provided some basic information about his circumstances. Mr S said he was employed with an income of £12,204 and renting his home. NewDay also carried out a credit search and found Mr S only owed a small amount – around £100 to other lenders. No missed payments or other adverse credit were found. NewDay's lending data shows it applied an estimated cost of living of £405 a month and rent of £438 a month, leaving Mr S with £42.24 a month as an estimated disposable income.

Whilst I understand the initial credit limit was reasonable modest at £450, I have to balance that against the fact NewDay's own affordability calculations showed Mr S only had £42 a month left after paying his rent and covering his normal outgoings. I'm not persuaded that with £42 a month remaining Mr S would've had enough available to be able to sustainably afford a new commitment or repay an outstanding balance of £450 without causing financial harm.

It could be argued the lack of affordability should've caused NewDay to consider carrying out more comprehensive checks before approving the application. But I think a low disposable income of £42 a month should've been enough in itself to have caused NewDay to decline Mr S' application without further enquiry. My view is that NewDay lent irresponsibly when it approved Mr S' Aqua application in January 2019.

It follows that if I think NewDay lent irresponsibly when it approved Mr S' Aqua application with a credit limit of £450 I think the same about its decision to increase the credit limit to £1,700 in May 2019. I've looked at the lending data provided by NewDay, both the spreadsheet and PDF. I note there's no figures in the lending data setting out how NewDay assessed Mr S' income or outgoings before increasing the credit limit to £1,700 in May 2019. Given the figures it used in January 2019, only five months before, showed Mr S only had £42 available as a disposable income, by almost tripling the credit limit to £1,700 it's clear this would significantly increase the payments Mr S needed to make to NewDay. I note NewDay's affordability likelihood score was 98% but I can't see how that figure was reached or what it was based on.

Given the information available, I haven't found anything that shows NewDay completed reasonable or proportionate checks. And I think it should've been clear to NewDay Mr S didn't have sufficient disposable income available to afford a credit limit increase to £1,700 in May 2019. Again, my view is that the information already available to NewDay should've been sufficient for it to see further credit wasn't affordable in the long term for Mr S and not increase the borrowing further.

Between the credit limit increase to £1,700 in May 2019 and £3,200 in September 2019 Mr S' other unsecured debts increased from around £500 to around £3,150. An increase of that nature would've had a significant impact on Mr S outgoings each month, especially given his declared income of £12,204. Given the very recent increase in Mr S' other unsecured debts and payments required to service them, I'm not persuaded it was reasonable for NewDay to have offered further borrowing. I've also looked at Mr S' bank statements for the three months before the credit limit increases were approved to see what NewDay would've found if it had carried out better checks.

I note NewDay's lending data said Mr S had an income of £1,183 a month when it increased the credit limit. But Mr S' bank statements don't show an income figure of that level. In the three months before the credit limit increase to £1,700 was approved, Mr S had an average income of £798. And in the same period, Mr S' average outgoings for direct debits and regular payments exceeded his income by an average of £10. That doesn't include payments for items like food, travel or normal day to day outgoings. I can also see Mr S' balance was overdrawn for the full three month period. A review of Mr S' bank statements would've quickly shown NewDay he wasn't in a position to sustainably afford further credit. Mr S' bank statements for the period before the credit limit increase to £3,200 paint a similar picture.

I've looked at Mr S' bank statements for the periods before the credit limit increases to £4,700 in March 2020 and £5,450 in August 2020. They show a similar situation regarding Mr S' circumstances with his income being largely used up by existing living expenses, like rent and utilities, and credit commitments. I note Mr S' overdraft balance was almost always between £1,500 and £2,000 overdrawn, never reaching a credit balance. I'm satisfied Mr S' bank statements show he didn't have any capacity for further borrowing and I'm satisfied NewDay lent irresponsibly when it increased his credit limit in stages to £4,700 or £5,450.

For the reasons noted above, my view is that NewDay lent irresponsibly when increasing the credit limit on Mr S' Aqua credit card in stages to £5,450.

NewDay has already agreed it shouldn't have increased the Aqua credit limit to £6,450 in April 2021 and refunded the relevant interest, fees and charges applied. So I don't need to make a findings on this lending decision.

NewDay also accepted the investigator's view it shouldn't have approved Mr S' Fluid application and agreed to refund all interest, fees and charges applied. So I don't need to make a finding on whether NewDay lent irresponsibly or not in relation to the Fluid credit card it approved.

I've considered whether the business acted unfairly or unreasonably in any other way including whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Mr S in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

I invited both parties to respond with any new information or comments they wanted me to consider before I made my final decision. Mr S responded to confirm he accepts. We didn't hear back from NewDay.

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 no new information has been provided I see no reason to change the conclusions I reached in my provisional decision. I still think Mr S' complaint should be upheld, for the same reasons.

My final decision

For the reasons I've noted above, my decision is that I uphold Mr S' complaint in full and direct NewDay Ltd to settle as follows:

- Rework the account removing all interest, fees and charges and insurances (not already refunded) that have been applied to both the Fluid and Aqua balances since inception.
- If the rework results in a credit balance, this should be refunded to Mr S along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove all adverse information recorded from Mr S' credit file.
- Or, if after the rework there's still an outstanding balance, NewDay should arrange an affordable repayment plan with Mr S for the remaining amounts. Once Mr S has cleared the outstanding balances, any adverse information recorded in relation to the accounts should be removed from his credit file.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Mr S a certificate showing how much tax has been 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 S to accept or reject my decision before 15 January 2025.

Marco Manente
Ombudsman