

The complaint

Mrs M has complained about a credit card she took out in November 2018 with NewDay Ltd trading as Aqua. She's said the credit card was unaffordable and shouldn't have been approved.

Mrs M is represented in bringing her complaint, but for ease I've written as if we've dealt directly with her throughout.

What happened

Mrs M took out this NewDay credit card account in November 2018 with a credit limit of £600. The credit limit was increased to £1,350 in March 2019.

In June 2024, Mrs M complained to NewDay to say the credit card should never have been provided to her. NewDay didn't uphold the complaint, saying it had lent responsibly.

Our Investigator didn't recommend the complaint be upheld about the original granting of the credit card, but they didn't think NewDay should have increased the credit limit. They set out what they thought NewDay should do to put things right.

Mrs M accepted our Investigator's findings. NewDay didn't respond, so the complaint has been passed to me to decide.

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.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case. What is proportionate will vary with each lending decision and considers things such as (but not limited to): the amount of credit, the size of the repayments, the cost of the credit, the purpose the credit was taken out for and the consumer's circumstances.

What's important to note is that Mrs M was provided with a revolving credit facility rather than a loan. And this means that to start with NewDay was required to understand whether a credit limit of £600 (and then £1,350) could be repaid within a reasonable period of time, rather than all in one go.

NewDay asked Mrs M for information when she applied for this credit card in 2018, including her income. NewDay also obtained a credit report for Mrs M in order to establish what her current credit commitments were and how she'd been managing those commitments.

Mrs M declared on the application she had an income of £39,459. NewDay has said that Mrs M had no CCJs or recent defaults, and all her credit commitments were showing as up to date with no recent missed payments.

It then carried out an affordability assessment using Mrs M's payments to creditors from her credit report and her other living expenses. CONC allows businesses to use statistical data to estimate a customer's non-discretionary expenditure unless they have reasonable cause to suspect that the data might not be reasonably representative in the customer's specific situation.

Having completed these checks, NewDay decided that Mrs M could afford a card with a credit limit of £600. I think these checks were proportionate given the credit offered and Mrs M's circumstances.

Based on Mrs M's declared income her net monthly income was around £2,260, and her credit commitments were around £340 a month. Once her normal living costs were factored in it seems she would be able to maintain a card with a credit limit of £600. Having considered everything very carefully I think that NewDay made a fair lending decision for the original application in November

The credit limit was increased to £1,350 in March 2019. At the time NewDay didn't ask Mrs M if her circumstances had changed, it instead looked at how Mrs M had managed her account and obtained information about her credit file and current account turnover from a credit reference agency.

Having completed these checks, NewDay decided that Mrs M could afford an increased credit limit of £1,350.

But I agree with our Investigator that NewDay should have found out more about Mrs M's circumstances for the credit limit increase. I say this because Mrs M had withdrawn cash from the credit card and gone over her credit limit in November 2018. The balance remained at between £555 and £585 each month, with her then going over her credit limit again at the start of March 2019. As Mrs M had only had the card for four months, that doesn't demonstrate a good payment history such that I consider the credit limit should have been more than doubled without any further checks being carried out. The external data also showed that Mrs M had an active payday loan and she was over her credit limit on other revolving credit agreements. It follows that I don't think the checks were proportionate.

I have therefore considered what the results of these better checks would have been and how they ought to have affected NewDay's lending decision for the March 2019 increase.

To understand Mrs M's circumstances around the time of the credit limit increase, I've reviewed her bank statements. In the absence of further checks by NewDay, I think it's fair in the circumstances to rely on Mrs M's actual circumstances at the time.

From what I can see, Mrs M was significantly overdrawn for the three months I have looked at (1 December 2018 to 28 February 2019) and she had some direct debits returned as unpaid. A significant portion of Mrs M's income came from benefits (including child benefit and child tax credits), and there were fairly regular payments to online gambling companies.

There were payments out to a payday loan company and to some credit card companies, and Mrs M was incurring overdraft fees of over £50 a month. Having reviewed the bank statements in full on average Mrs M had less than £50 a month left over to cover any contingencies.

Mrs M's bank statements show she was struggling to manage her finances, with money going out as soon as it was received and Mrs M never coming out of her overdraft even when money was received into the account (instead that would simply briefly reduce the size of the overdraft debt).

This, when also considering the payday loan and returned direct debits, ought to have indicated to NewDay that it was likely Mrs M was overly reliant on credit and that further borrowing may not have been sustainable.

Having considered everything very carefully I haven't been persuaded that the decision to increase the credit limit was in Mrs M's best interests overall and I don't think the lending was affordable or sustainable. NewDay in my view has lent when it shouldn't have, and it needs to put things right.

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 Mrs M in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

I direct NewDay Ltd trading as Aqua to:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £600 after 4 March 2019.
- If the rework results in a credit balance, this should be refunded to Mrs M 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 after 4 March 2019 regarding this account from Mrs M's credit file.
- Or, if after the rework the outstanding balance still exceeds £600, NewDay should arrange an affordable repayment plan with Mrs M for the remaining amount. Once Mrs M has cleared the outstanding balance, any adverse information recorded after 4 March 2019 in relation to the account should be removed from her credit file.

If NewDay has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

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

My final decision

My decision is that I uphold Mrs M's complaint and direct NewDay Ltd trading as Aqua to settle it as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 6 August 2025.

Julia Meadows
Ombudsman