

The complaint

Mrs G complains that NewDay Ltd trading as Aquacard (NDay) lent to her irresponsibly.

What happened

In February 2018, Mrs G applied for a new credit card from Aqua. This was agreed and her limit was then increased as shown:

Limit increase number	Date	Limit
	February 2018 (new account)	£900
1	June 2018	£2,400
2	October 2018	£3,800
3	April 2019	£5,300

Mrs G complained. She said:

- When the card was issued in 2018, she was unemployed.
- She only received benefits.
- She has struggled to make the payments to the Aqua credit card account.
- She only ever paid the minimum amount each month.
- She lived in a bank overdraft and used that to make payments to her accounts.
- She had to borrow on other cards to pay for the NDay card.
- She was always close to her credit limit or exceeded it.
- She had multiple other borrowings which she struggled to repay – she had debts of over £20,000.
- NDay didn't ask her any questions when increasing her limit.

NDay said they'd carried out the necessary and proportionate checks and didn't uphold Mrs G's complaint. This included information provided by Mrs G and from credit reference agencies (CRAs); and how Mrs G managed her account with NDay.

NDay's checks showed she had no active pay day loans, was not on a payment plan with other lenders, and hadn't been over the limit or incurred late payment fees on her other debts, or on her NDay account. These checks were carried out at each increase in limit.

Mrs G brought her complaint to us. Our investigator upheld it. She said Mrs G's first application for the card showed her annual income was £16,000. NDay's checks showed there was no adverse information, but the checks also showed she had monthly credit commitments of £645, which seemed high. And – NDay worked out she had a debt/income ratio of 116%.

Therefore she said NDay should've done more checks into Mrs G's circumstances when issuing the card.

Our investigator looked at Mrs G's bank statements – and these showed she didn't receive any regular income from employment but received only benefits - which added up to £15,589 per annum. The statements showed she had commitments to various credit accounts and loans. So – NDay would have seen this had they made more checks when issuing the card.

Because they shouldn't have issued the credit card in the first place, it followed that the subsequent limit increases should also have not been given.

She said all charges and interest should be refunded from the time the account was opened.

Mrs G accepted this. NDay didn't respond – so for that reason, Mrs G's complaint has come to me to look at.

I reached a provisional decision which upheld the complaint but with a different remedy:

All lenders have an obligation to lend money responsibly. We have to check whether NDay acted in line within the Financial Conduct Authority (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments, as well as the risk to the customer of not being able to make repayments. We look at:

- Whether the lender completed reasonable and proportionate checks to satisfy itself that the borrower would be able to repay any credit in a sustainable way?
- If reasonable and proportionate checks were completed, did the lender make a fair lending decision bearing in mind the information gathered and what the lender knew about the borrower's circumstances?

And a reasonable and proportionate check would usually need to be more thorough:

- the lower a customer's income, and the higher amount to be repaid.
- the greater the number of loans and frequency of loans, the longer the term of the loans.

It's important to note that the checks must be proportionate to the amount being lent – so the higher the amount, the greater the checks must be, and the lower the amount, then fewer checks can be made.

If a lender carries out the necessary and proportionate checks, and the results are satisfactory, then firms don't have to ask for more information such as bank statements.

I looked at the checks NDay carried out with this guidance in mind.

First Issue of credit card: February 2018:

I think the first issue of the credit card was provided responsibly – given the low credit limit of £900. I consider NDay carried out reasonable and proportionate checks for that limit.

Mrs G declared she had an income of £16,000. I can see from her credit file that she had one other card at the time – with a limit of £3,600. So, given she would then have had only

two cards with limits of £4,500, I don't think that was unreasonable as against her income of £16,000. And – the limit of £900 was low.

Limit increase: June 2018 - £2,400:

While Mrs G had made the necessary payments to her Aqua card, she had only had the card for four months - and NDay increased her limit by almost three times her original limit. They could only see her account history for three or four months, which wasn't a very long time.

And her credit file shows that she had by then unsecured debts of £20,000 – this was shown in NDay's assessment. I can also see that from Mrs G's credit file.

She also had a mortgage of about £57,000 with a monthly payment of £352. I can also see that NDay didn't work out a figure for Mrs G's estimated disposable income (EDI).

So – putting together what this showed – was that Mrs G had increased her debts by a significant amount in four months. This should've caused NDay to ask more questions about Mrs G's circumstances – but they didn't. For this reason, I think the increase in lending in June 2018 was provided irresponsibly – and NDay should therefore refund all fees and interest since that time and for borrowing over £900.

Limit increases – October 2018 and June 2019:

While my decision doesn't need to go into these – as I consider the limit increase in June 2018 shouldn't have been made without more inquiries – I noted what happened at the next two limit increases.

By October 2018 – Mrs G's unsecured borrowing had increased to £21,000 and by April 2019, it had increased to over £23,000. Mrs G's income hadn't changed. So – certainly at those points, it would've been reasonable to have expected NDay to ask Mrs G more about her circumstances but didn't.

I noted that Mrs G's financial circumstances got worse later on and in 2020 she fell into arrears on the Aqua card – and her credit file was marked with the arrears markers. Her total unsecured debts increased to over £23,000.

My provisional decision is that NDay must refund all interest and fees after June 2018 on borrowing over £900 (because I consider the first issue of the card to have been made responsibly), but not the limit increases from June 2018. **(continued)**

Responses to the provisional decision:

Neither NDay nor Mrs G made any comments.

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 neither NDay nor Mrs G made any comments, my final decision is unchanged from the provisional decision.

My final decision

I uphold this complaint and NewDay Ltd trading as Aqua must:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Mrs G along with 8% per annum simple interest calculated from the date of each overpayment to the date of settlement. NDay should also remove all adverse information regarding this account from Mrs G's credit file.
- Or, if after the rework there is still an outstanding balance, NDay should arrange an affordable repayment plan with Mrs G for the remaining amount. Once Mrs G has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 18 January 2025.

Martin Lord
Ombudsman