

The complaint

Miss C complains that NewDay Ltd trading lent irresponsibly when it approved her credit card applications and went on to increase the credit limits.

What happened

Miss C successfully applied for an Aqua credit card with NewDay in December 2018. Miss C provided details of her circumstances in the application and a credit search and affordability assessment was completed. NewDay approved an Aqua credit card with a limit of £450. The credit limit was increased to £1,450 in August 2021, £2,450 in January 2022, £3,450 in May 2022 and £4,200 in December 2023.

Miss C applied for a Marbles credit card with NewDay in June 2021. In her application, Miss C said she was employed with an income of £25,000 that NewDay calculated left her with £1,793 a month. NewDay applied a cost of living estimate for Miss C's everyday expenses of £597 a month. A housing figure of £474 was used by NewDay in its affordability calculations. NewDay carried out a credit search and found Miss C was making monthly repayments of £625 to her existing creditors and owed around £11,700 in total. NewDay applied its lending criteria and says Miss C had an estimate disposable income of £65 a month after her existing commitments were met. NewDay approved Miss C's Marbles credit card with a credit limit of £300.

NewDay increased the Marbles credit limit to £1,300 in December 2021, £2,050 in April 2022, £2,800 in August 2022 and £3,550 in September 2023.

Last year, Miss C complained that NewDay lent irresponsibly when approving her credit card applications and increasing the credit limits. NewDay issued a final response on 16 July 2024 and partially upheld Miss C's complaint. NewDay agreed to refund all interest, fees and charges applied to the Aqua credit card from inception, totalling £2,392.84. But NewDay didn't agree it had lent irresponsibly when approving the Marbles credit card and increasing its credit limit and didn't uphold this part of Miss C's complaint.

An investigator at this service looked at Miss C's complaint and upheld it. They noted NewDay had already upheld Miss C's Aqua credit card complaint and refunded the interest and charges – as we would've asked it to do. So the investigator didn't comment on the Aqua credit card further. The investigator thought the original decision to approve the Marbles credit card application with a limit of £300 was reasonable. But the investigator thought the decision to increase Miss C's credit limit was irresponsible as Miss C wasn't earning an income in line with the figures NewDay used and her debts had significantly increased.

The investigator asked NewDay to refund all interest, fees and charges applied to balances over £300 from December 2021 onwards. The investigator's view was sent to NewDay on 14 November 2024 and the response was chased. But when no response from NewDay was received, the investigator contacted both parties on 9 December 2024 to say Miss C's case would be referred to an ombudsman. A further two weeks to respond were provided but NewDay didn't come back to us with further comment or to confirm it was willing to accept.

As no response was received from NewDay, Miss C's complaint has been passed to me to make a decision.

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.

Before agreeing to lend or increasing the credit limit, the rules say NewDay had to complete reasonable and proportionate checks to ensure Miss C 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.

I'll start by saying that I can see NewDay has already upheld Miss C's complaint about the Aqua credit card and agreed to refund interest, fees and charges applied from the date it was opened totalling £2,392.84. The approach NewDay took to resolving Miss C's complaint is in line with how we settle complaints of this nature. I can see that in response to the investigator, Miss C questioned whether NewDay should've added 8% interest to the award. But we would only expect a business to award 8% where its refund means the full outstanding balance is repaid and there's an excess to return to the borrower. Here, NewDay's refund of £2,392.84 left an outstanding balance of £1,733.64 at the point it issued its final response. So no 8% interest award is due to Miss C in relation to the refund NewDay has already made. As NewDay has already upheld this part of Miss C's complaint, I'm not going to comment further. I have taken the Aqua credit card into account in terms of the overall borrowing position of Miss C during the period she's held a Marbles credit card with NewDay.

When Miss C applied for her Marbles credit card she gave NewDay an income figure of £25,000 that it calculated left her with £1,793 after deductions. I can see NewDay applied reasonable cost of living expenses to Miss C's application of £597 plus £474 for her housing costs. In addition, NewDay carried out a credit search and found Miss C owed around £11,700 and was making existing repayments of £625 a month. That left Miss C with an estimated disposable income of £65. That is a very low disposable income figure, but I also think it's fair to note the initial credit limit of £300 was also low. Miss C had built a reasonable track record with NewDay in relation to her Aqua credit card at this point. And there were no signs on her credit file of recent financial difficulties. Overall, I'm satisfied NewDay carried out reasonable and proportionate checks before approving the Marbles credit card with a limit of £300. I haven't been persuaded that NewDay lent irresponsibly when it approved the credit card with a limit of £300.

Miss C's other unsecured debts quickly increased after her Marbles application was approved. When Miss C originally applied she owed around £11,700 in other unsecured

debts but by August 2021, that figure had increased to over £23,000. NewDay's lending data shows Miss C owed £24,690 in December 2021 when her credit limit was increased to £1,300. Whilst I note NewDay's lending data also says it verified Miss C's income as £4,515 a month via the credit reference agency, that's an increase of almost £3,000 in the six months since Miss C first applied which doesn't feel realistic. And an income figure of that level is very much at odds with Miss C's unsecured debts which had more than doubled in the same period. In my view, it would've been reasonable for NewDay to have considered completing better checks to get a more accurate picture of Miss C's circumstances, like looking at her bank statements or verifying her income.

I've reached the same conclusion in relation to the credit limit increases to £2,050 in April 2022, £2,800 in August 2022 and £3,550 in September 2023. Miss C's unsecured debt increased to nearly £43,000 in April 2022, reducing to £37,246 in August 2022 and £33,105 in October 2023. But I'm satisfied the level of unsecured debt Miss C had in her name was very much at odds with the income figures and affordability assessments NewDay used when increasing the credit limit. On all occasion, I think NewDay should have carried out better checks as noted above.

Miss C has provided a copy of her P60 for the year leading up to April 2022 that shows she earned £6,240 in the preceding tax year. Miss C's P60 for the tax year up to April 2023 shows she earned £16,938. And Miss C's P60 for the year up to April 2024 shows she earned £30,105. All of the income figures recorded on Miss C's P60s are substantially below the level NewDay used in its lending assessments when increasing the credit limit.

I've test the expenditure figures NewDay used in all its assessments when increasing Miss C's credit limits. On each occasion, when using the income figure noted in Miss C's P60s, Miss C's outgoings exceeded her income. In my view, if NewDay had carried out better lending checks, like getting specific evidence of her income, it's more likely than not it would've declined to increase her credit limit above £300. As a result, I'm satisfied NewDay did lend irresponsibly when increasing the Marbles credit limit in stages from £300 to £3,550. To resolve Miss C's complaint, I'm going to direct NewDay to refund all interest, fees and charges applied to balances over £300 from December 2021 onwards.

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 Miss C 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.

My final decision

My decision is that I uphold Miss C's complaint and direct NewDay Ltd to settle as follows:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £300.
- If the rework results in a credit balance, this should be refunded to Miss C 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 December 2021 regarding this account from Miss C's credit file.
- Or, if after the rework the outstanding balance still exceeds £300, NewDay should arrange an affordable repayment plan with Miss C for the remaining amount. Once Miss C has cleared the outstanding balance, any adverse information recorded from December 2021 in relation to the account should be removed from her credit file.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Miss C 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.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 11 February 2025.

Marco Manente
Ombudsman