

The complaint

Mrs R complains that NewDay Ltd trading as Aquacard (NewDay) was irresponsible to open a credit account for her and to later increase the credit limit.

Mrs R has brought her complaint via a representative but I will refer to her throughout for simplicity.

What happened

NewDay opened a credit account for Mrs R in April 2020 with a credit limit of £450. It went on to offer Mrs R five credit increases as shown in the table below. I understand that by February 2023 the account was dormant, and NewDay closed it on receipt of Mrs R's complaint.

Limit increase	Date	Credit limit
	02/04/2020	£450
1	07/08/2020	£950
2	10/12/2020	£1,950
3	08/04/2021	£3,200
4	09/08/2021	£4,450
5	07/12/2021	£5,200

Mrs R complained to NewDay in March 2024 that it shouldn't have agreed credit for her because she couldn't afford the repayments.

NewDay said in response that it carried out an assessment before it opened the account and before each subsequent credit increase to check that the credit would be affordable for Mrs R. It said it was confident that the credit had been provided responsibly and didn't uphold her complaint.

Mrs R referred her complaint to us. Our investigator found that NewDay wasn't irresponsible to have opened the account. However, they also found that NewDay should have seen from the information it had that Mrs R was in financial difficulty, and should not have increased the limit on her account beyond £450 in August 2020.

NewDay didn't agree with this recommendation and asked for the complaint to come to an ombudsman to decide, and it was passed to me.

I issued a provisional decision on the 13 December 2024 explaining why I planned to uphold Mrs R's complaint in part.

I'd found that NewDay wasn't irresponsible to have opened the account for Mrs R or to have increased the credit limit to £950 in August 2020, but it should have carried out more rigorous checks before increasing the limit above this. I wasn't able to come to a view as to what such checks might have revealed as Mrs R hadn't provided enough information about

her circumstances in late 2020 and 2021. However, I found that NewDay shouldn't have increased the credit limit again in December 2021 because it should have seen that Mrs R was likely having difficulty with her finances from the way she was managing her account.

In response to my provisional decision, Mrs R provided information about her circumstances in late 2020 and 2021. I've had no response 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.

Having reviewed everything again, including the new information Mrs R provided in response to my provisional decision, I haven't found that NewDay was irresponsible to have opened the account or to have increased the credit limits until December 2021. I remain of the view that NewDay should not have increased the credit limit on that last occasion. I'll set out my reasons for my conclusions again in this final decision, and will refer to the new information from Mrs R where appropriate.

As before, I've had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as NewDay, need to abide by. NewDay will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise and refer to them where appropriate.

Before entering into the credit agreement or significantly increasing the credit limit, NewDay needed to check that Mrs R could afford to meet her repayments out of her usual income 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.

The checks carried out needed to be proportionate to the nature of the credit (the amount offered, for example) and to Mrs R's particular circumstances. Generally, more in depth checks might be proportionate the higher the credit amount or the longer the lending relationship, and NewDay needed to have proper regard to the outcome of its assessments in respect of affordability risk. The overarching requirement was that NewDay needed to pay due regard to Mrs R's interests and treat her fairly.

With this in mind, my main considerations are did NewDay complete reasonable and proportionate checks when assessing Mrs R's application and before increasing her credit limits to satisfy itself that she would be able to make her repayments without experiencing adverse consequences? If not, what would reasonable and proportionate checks have shown? Was there anything of concern in the checks NewDay did carry out and did it make fair lending decisions? Did NewDay treat Mrs R unfairly or unreasonably in any other way, including whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974?

NewDay provided the information it relied when making its lending decisions, which included what Mrs R said about her income, its estimations of her expenditure and information from the credit reference agencies (CRAs). NewDay said that it used CRA information about an applicant's current account turnover to check their income level and estimate their disposable income (EDI).

I've summarised some of the information NewDay provided about the account in the table below. This shows the credit limit increases, the income figure and EDI NewDay relied on in

its assessments, and information about Mrs R debts that it gathered from CRAs throughout the lending history.

Application or limit increase offer dates	Credit limit	Net monthly income	Monthly expenses	Existing unsecured debt	Existing debt payments	EDI (£)
02/04/2020	£450	£1,837	£703	£1,322	£79	£1,052
07/08/2020	£950	£3,981	£1,361	£2,104	£66	£2,554
10/12/2020	£1,950	£4,258	£949	£2,697	£132	£3,177
08/04/2021	£3,200	£4,347	£963	£4,899	£190	£3,194
09/08/2021	£4,450	£4,090	£925	£6,226	£256	£2,909
07/12/2021	£5,200	£3,764	£892	£8,137	£367	£2,505

The account opening - April 2020

Mrs R said her net monthly income was £1,837 when she applied for the account. NewDay estimated that Mrs R's expenses came to £703 and she spent £79 repaying her existing credit commitments. NewDay didn't record a figure for Mrs R's total debts but the first record it has is a figure of £1,322 in June 2020 so I've assumed that her debts were at a similar level in April.

The CRA summary NewDay provided didn't show any negative information such as bankruptcy or county court judgements, and the most recent default marker was almost three years old.

Altogether, given what NewDay's assessment found and the amount of credit it was offering, I think its checks were reasonable and proportionate here and it didn't lend irresponsibly or treat Mrs R unfairly when it opened this account for her.

The first credit limit increase - August 2020

NewDay offered Mrs R a credit limit increase from £450 to £950 four months after opening the account. NewDay relied on a figure of £3,981 for Mrs R's income, which I understand was based on current account turnover. It estimated that Mrs R would have a disposable income of £2,554, more than double its estimate from a few months earlier.

The CRA summary data captured on 5 July 2020 showed that Mrs R had missed a payment in the previous month. I don't know whether this factored into NewDay's decision but I don't think a missed payment on its own would automatically have raised concerns. NewDay said that before this increase, Mrs R had remained well within her credit limit, made over and above the minimum payments, didn't use the cash facility, incurred no late or over-limit fees and had a good level of disposable income.

Given these circumstances, and the level of credit that NewDay was now offering, I think its checks were reasonable and proportionate here and it didn't lend irresponsibly or treat Mrs R unfairly when it increased her limit on this occasion.

Credit limit increases in December 2020, and April and August 2021

NewDay offered Mrs R an increase in her credit limit from £950 to £1,950 in early December 2020. It relied on a figure of £4,258 for Mrs R's income and estimated that she would have a disposable income of £3,177.

I note that there wasn't any adverse information showing on the CRA summary, such as bankruptcy or county court judgements, though it had reported two missed payments in the previous six months. As mentioned, NewDay said Mrs R had met her repayments on time since the account was opened, sometimes making more than the minimum repayment.

Nevertheless, given the difference in the income figure NewDay was relying on from what Mrs R had said she earned some eight months earlier, and the amount of credit it was now offering, I think it would have been reasonable and proportionate at this point for NewDay to have verified Mrs R's actual income level. And, for the same reasons, I don't think NewDay's checks were proportionate for the credit limit increases it offered in April and August 2021.

When making my provisional decision, I didn't consider how a more rigorous check might have impacted on NewDay's decision to offer these credit limit increases. This was because I didn't have enough information about Mrs R's circumstances to come to a view as to what such checks might have revealed.

In response to this, Mrs R provided her bank statements for her current account covering the period January to December 2020. She also provided bank statements for a savings account covering the period November 2020 to November 2021, and a copy of her credit file dated December 2024.

The current account bank statements show that Mrs R's usual income wasn't at the level that NewDay relied on in December 2020. In the months leading up to the December 2020 increase Mrs R's monthly income was £2,300 on average. Mrs R's usual non-discretionary expenses and her existing debts were similar to the figures NewDay relied on, although she was making higher repayments to her revolving credit accounts. There was no adverse information recorded on her credit file, such as court judgements, missed or late payments.

Altogether, I've concluded that further checks would likely have reassured NewDay that Mrs R would be able to meet her repayments without difficulty and it would have proceeded with the credit limit increase in December 2020.

I don't have any information about Mrs R's income and expenditure for 2021, but her credit file doesn't show any adverse information across her accounts. I appreciate that Mrs R borrowed more later on, and missed payments in 2022 and defaulted on several accounts in later years, but there wasn't anything in her credit file information that I think would have stopped NewDay from offering credit limit increases in April and August 2021.

In summary, having considered the new information Mrs R provided, I haven't found that NewDay was irresponsible or that it treated Mrs R unfairly when it increased the credit limit on her account in December 2020, and again in April and August 2021.

The credit limit increase in December 2021

By the time of the last credit limit increase, offered in December 2021, Mrs R had been charged late fees and cash advance fees and had spent almost up to her existing limit of £4,450. For contrast, the account balance had been reported as around £2,400 a few months earlier in July. NewDay noted that Mrs R's existing level of debt around that time was over £8,000, a considerable increase since the account opening.

Even without going into Mrs R's circumstances in more depth, I think it's more likely than not that Mrs R was having difficulties with her finances, and NewDay should have seen this from the information it had available and not offered her this final credit limit increase. I can see that Mrs R was subsequently charged overlimit fees in early 2022. I don't think NewDay

treated Mrs R fairly or considered her interests when it increased her limit on this occasion, and I am upholding this part of her complaint.

I did also consider whether NewDay treated Mrs R unfairly or unreasonably in any other way, including whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. And I'm satisfied the redress I have directed below results in fair compensation for Mrs R in the circumstances of this complaint and that no additional award would be appropriate in this case.

Putting things right

I've concluded that NewDay was irresponsible to have increased the credit limit on Mrs R's account beyond £4,450 in December 2021. NewDay should:

- Rework the account removing all interest, fees, charges or insurance premiums that have been applied to balances above the credit limit of £4,450 from the date the increase was offered;
- If the rework results in a credit balance, this should be refunded to Mrs R 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 regarding this account from Mrs R's credit file; or
- If after the rework, there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Mrs R for the remaining amount. Once Mrs R has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

If NewDay has sold an account balance to a third party debt collector, it will need to either buy the balance back or work with the third party to bring about the above steps.

** HM Revenue & Customs requires NewDay to take off tax from this interest. NewDay must give Mrs R a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given above, I am partly upholding Mrs R's complaint about NewDay Ltd trading as Aquacard and it now needs to put things right as I've set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 13 February 2025.

Michelle Boundy
Ombudsman