

The complaint

Mr E complains that NewDay Ltd trading as Aquacard was irresponsible in its lending to him. He wants the interest he has paid on his account refunded.

What happened

Mr E was provided with an Aqua credit card by NewDay in November 2020. The initial credit limit was set at £250, and this was increased on six occasions. The final credit limit was £7,400.

Mr E said that he had multiple debts at the time the credit card was provided and while he gave details about his income, he doesn't believe that adequate checks were carried out to ensure the lending was affordable. He said he has constantly struggled to pay his bills and has missed several payments causing him stress and resulting in further interest being added. He said the initial limit of £250 was increased without him requesting this and now stands at £7,400. He said that the credit limit should never have been increased to this level.

NewDay issued a final response to Mr E's complaint dated 24 November 2024. It said it carried out a comprehensive affordability assessment before lending which considered information Mr E provided in his application along with information from the credit reference agencies. It noted that when Mr E applied for the account, he declared an annual income of £10,000. It said its creditworthiness assessment showed he had sufficient disposable income to meet the repayments of the credit limit provided.

NewDay noted that Mr E's credit limit had been increased on six occasions. It said that before each increase it gave Mr E the opportunity to opt out of the increase and that its checks didn't raise any concerns about how Mr E was managing his account or his other credit. Therefore, it didn't agree that the credit limit increases were irresponsible.

Mr E referred his complaint to this service.

Our investigator thought that reasonable checks were carried out before NewDay opened an account for Mr E and before the first three credit limit increases and the fifth and sixth credit limit increases were applied. However, she thought that further checks should have been undertaken before the fourth credit limit increase took place. She considered what would likely have been identified had further checks taken place but didn't find that these would have shown the lending to be unaffordable. Based on this she was satisfied that the lending decisions were fair, and she didn't uphold this complaint.

Mr E didn't accept our investigator's view. He noted the other debts he had outstanding and said he didn't feel that the calculated disposable income was enough to cover any emergencies or unplanned expenses. He provided copies of his account statements which he said showed he didn't have spare money to meet an increase in repayments and said that during the period of the lending his dependents increased from zero to two. He said that he had managed to pay down the account but only by taking out additional debt.

As a resolution wasn't agreed, this complaint was passed to me, an ombudsman to issue a

decision.

My provisional conclusions

I issued a provisional decision on this complaint upholding it from the credit limit increase in November 2023. The details of my provisional decision are set out below.

Mr E was provided with a credit card account with an initial credit limit of £250. This was then increased on six occasions. I have considered each lending decision below.

Account opening November 2020

Mr E applied for a credit card account in November 2020. NewDay gathered information about Mr E's income and carried out a credit check. Mr E declared an annual income of £10,000. The credit check recorded no current bankruptcy, defaults or repayment plans. There was reference to a previous bankruptcy / individual voluntary arrangement but Mr E has confirmed that he didn't have either of these recorded against him. Mr E's credit commitments were recorded as £272 a month.

In this case, noting the size of the credit limit being provided (£250) and that Mr E's credit file didn't show any current issues with how he was managing his existing commitments, I find the checks were reasonable. As these didn't suggest the lending to be unaffordable, I do not find I can say that NewDay was wrong to provide this account.

Credit limit increases 1 and 2

Mr E was offered a credit limit increase in March 2021 to £1,250 and in July 2021 to £2,750. I have looked at how Mr E was managing his account in the lead up to these increases and I do not find that this raised concerns. He hadn't incurred any late or over limit fees and he wasn't making cash advances. Mr E was making payments towards the account, and these were often above the minimum required. The credit data from the time didn't suggest Mr E was overindebted with his outstanding balances recorded as £973 in March 2021 and £1,323 in July 2021. There was no adverse data such as defaults or delinquent accounts recorded. Taking everything into account, I think the checks carried out were proportionate and based on the affordability checks I do not find these raised concerns that meant the additional credit shouldn't have been provided.

Credit limit increase 3

Mr E was offered a credit limit increase to £3,750 in November 2021. This was the third increase in the year and meant that Mr E's credit limit had increased from £250 to £3,750 in around 12 months. While Mr E's account management didn't raise concerns in the months preceding this increase (no late or overlimit charges or cash advances) and he was making payments above the minimum required, his total credit commitments (excluding any mortgage) had increased significantly to over £15,300. Mr E's monthly income was assessed and recorded as £1,960. Given the increase in debts and noting the level of these compared to Mr E's income, I think that further questions should have been asked to ensure that any additional credit would be affordable for him.

NewDay wasn't required to request copies of Mr E's bank statements, but I think it should have gathered further details of Mr E's income and expenses at that time to ensure the additional lending would be affordable for him. I have looked through Mr E's bank statements to assess what would likely have been identified had further questions been asked. Having done so, these support an income figure in line with that recorded by NewDay. Mr E's expenses included payments towards other credit commitments, insurances, a mobile

contract and other general costs such as food and fuel. He was also making weekly transfers to another account in his name. However, taking these into consideration I do not find that I can say further checks would have shown the additional credit to be unaffordable for Mr E.

Credit Limit increase 4

Mr E was offered a credit limit increase to £5,250 in April 2023. This was around a year and a half after the previous credit limit increase. At the time Mr E's income was assessed as £2,300 and his total outstanding balances had reduced to around £5,000. I do not find that Mr E's account management raised any serious concerns. He was keeping within the credit limit and not taking out cash advances. He had incurred a late fee in September 2022, but other than that he hadn't incurred fees in the months leading up to this credit limit increase. That said, given the size of the credit limit increase, I think it would have been reasonable to for NewDay to have carried out further checks to ensure the additional lending would be affordable for Mr E.

I have looked at Mr E's bank statements for the three months leading up to the credit limit increase being offered and his income averaged around £1,925, lower than the amount recorded by NewDay. Mr E was making weekly payments of £100 to his joint account from which certain household costs were paid. Transfers were made from the joint account to Mr E's personal account to cover the payments of £450 for rent each month. Additional to the £100 weekly payments for the joint costs, Mr E was also paying insurance, mobile phone contract and other general living costs such as food and fuel. These monthly costs averaged around £725.

Mr E's payments towards his existing credit commitments (excluding the Aqua credit card) were around £585. Based on the new credit limit of £5,250 this would result in repayments of around £263 if the limit was fully utilised. This would increase his credit commitments to around £848.

Based on the figures above, Mr E would be left with disposable income of around £350 after his repayments for the increased credit limit. Given this, I do not find I have enough to say that had further checks been undertaken the additional credit limit would have been found to be unaffordable.

Credit limit increases 5 and 6

Mr E was offered a credit limit increase to £6,750 in November 2023. At the time Mr E's income was assessed as £2,211 and his total outstanding balances remained around £5,000. Mr E had taken out the occasional cash advance, but he hadn't incurred any overlimit or late payment fees in the months leading up to the credit limit increase and so overall, I do not find that his account management raised any serious concerns. That said, given the size of the credit limit after the increase, I think it would have been reasonable for NewDay to have carried out further checks to ensure the additional lending would be affordable for Mr E.

I have looked at Mr E's bank statements for the three months leading up to the credit limit increase being offered and his income averaged around £1,815, lower than the amount recorded by NewDay. Mr E was making weekly payments of £125 to his joint account from which certain household costs were paid. Transfers were made from the joint account to Mr E's personal account to cover the payments of £450 for rent each month. Additional to the £125 weekly payments for the joint costs, Mr E was also paying insurance, mobile phone contract and other general living costs such as food and fuel. These monthly costs averaged around £840.

Mr E's payments towards his existing credit commitments (excluding the Aqua credit card) were around £730. Based on the new credit limit of £6,750 this would result in repayments of around £338 if the limit was fully utilised. This would increase his credit commitments to around £1,068. This is around 59% of his net monthly income.

Based on the figures above, Mr E wouldn't be left with any disposable income after his repayments for the increased credit limit. Given this and considering the size of his monthly repayments for his credit commitments compare to his income, I do not think this credit limit increase, nor the additional credit limit increase applied in March 2024, should have been considered as sustainably affordable for him.

Mr E responded to my provisional decision and provided further copies of his account statements from the time. He said that he believed that the refund should take place from the third credit limit increase. He explained that his first child was born in September 2021 and his second in June 2024, and that at the time of the credit limit increases his financial responsibilities had increased significantly but no additional checks were undertaken to understand his increased financial obligations. He said that his bank statements may not have fully reflected the additional financial pressures of supporting a young family, and he believed further inquiries into his circumstances would have highlighted the strain that an increased credit limit could impose.

Mr E explained that he was paid weekly and was living pay check to pay check. He said this vulnerable financial situation hadn't been taken into account. He also noted that he took out a loan in November 2021 to pay off some of his outstanding balance on the account. He said this was him taking on extra debt to repay other debts and wasn't a sign that he could afford more credit.

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.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

I note Mr E's response to my provisional decision, and I have looked again at the information provided in regard to Mr E's financial circumstances at the time of the third and fourth credit limit increases.

The third credit limit was offered in November 2021. I have looked at how Mr E was managing his account in the months leading up to this increase and his bank account statements. While I note Mr E's comments about his additional costs, having reviewed his income and expenses from the time, including his payments for food, fuel and other general living costs, I do not find that I have enough to say that the credit limit increase should have been considered unaffordable. I appreciate the comment Mr E has made that his bank statements may not fully show his financial situation from the time but I have to base my decision on what I think further checks would likely have identified. In this case, while I think it would have been reasonable for NewDay to undertake further checks before this credit

limit was provided, I do not find that I can say had these happened, the credit limit increase would have been identified as unaffordable.

Likewise, with the fourth credit limit increase, I considered the account management and the information in Mr E's bank account statements for the months leading up to the increase. As I set out in my provisional decision, Mr E's income for the three months leading up to the credit limit increase being offered averaged around £1,925 and his monthly costs averaged around £725. Mr E's payments towards his existing credit commitments (excluding the Aqua credit card) were around £585. Taking all of this into account, I do not find that I can say that further checks would have identified this credit limit increase to be unaffordable.

So, while I understand that Mr E believes that this complaint should be upheld from an earlier credit limit increase, for the reasons I set out in my provisional decision and above, I think the fair outcome to this complaint is that it is upheld from the fifth credit limit increase in November 2023.

I've also considered whether NewDay acted unfairly or unreasonably in some other way given what Mr E has complained about, including whether its relationship with him might have been viewed as unfair by a court 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 E 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.

Putting things right

I am upholding this complaint from the fifth credit limit increase in November 2023. Based on this, NewDay Ltd trading as Aquacard should:

- Rework Mr E's account removing all interest, charges or insurance premiums (that haven't already been repaid) that have been applied to balances above the credit limit of £5,250 from November 2023;
- If the rework results in a credit balance, this should be refunded to Mr E 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 Mr E's credit file.
- Or, if after the rework, there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Mr E for the remaining amount. Once Mr E has cleared the balance, any adverse information in relation to the account should be removed from his credit file.

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

My final decision

My final decision is that I uphold Mr E's complaint from the fifth credit limit increase in November 2023. NewDay Ltd trading as Aquacard should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 7 April 2025.

Jane Archer
Ombudsman