

The complaint

Miss C complains that NewDay Ltd lent irresponsibly when it approved two credit card applications she made and later increased the credit limit.

What happened

The background to this complaint and my initial conclusions were set out in a provisional decision. I said:

Miss C applied for an Aqua credit card with NewDay in February 2022. In her application, Miss C said she was employed with an income of £14,000 that NewDay calculated left her with £1,133 a month after deductions. NewDay applied an estimate of Miss C's everyday living expenses of £446 a month. No rent figure was used in NewDay's assessment. A credit search found Miss C had a default that was 38 months old but no recent missed payments and no other adverse credit. NewDay found Miss C was making monthly repayments of £220 towards her existing unsecured borrowing. The information available indicated Miss C owed around £3,500 at the time of her application. NewDay applied its lending criteria and says Miss C had an estimated disposable income of £466 after her existing commitments were met.

NewDay went on to increase the credit limit of Miss C's Aqua credit card to £800 in October 2022 and £1,500 in July 2023. NewDay says that before each credit limit increase it applied its lending criteria.

Miss C applied for a Fluid credit card with NewDay in October 2023. In her application, Miss C confirmed she was earning £14,000 a year (£1,133 a month). Aqua applied estimates for Miss C's general living expenses of £414 and rent of £218 a month. A credit search found it was now 60 months since Miss C's default was recorded. The credit search also showed Miss C owed £3,300 in unsecured debts and was making monthly repayments of £140. NewDay says Miss C had an estimated disposable income of £345 after her existing commitments were met and approved a Fluid credit card with a limit of £2,000.

Last year, Miss C complained that NewDay lent irresponsibly and it issued a final response. NewDay didn't agree it lent irresponsibly when approving Miss C's Aqua credit card but paid her £165.71 representing two over limit fees and two months of interest as a gesture of goodwill. NewDay also confirmed Miss C's accounts were closed to new lending.

An investigator at this service upheld Miss C's complaint about the Aqua credit card and asked NewDay to refund all interest, fees and charges applied from the date of approval. The investigator noted Miss C had incurred a County Court Judgement (CCJ) on her credit file in December 2021 and thought this was a clear indicator she was experiencing financial difficulties.

The investigator wasn't persuaded to uphold Miss C's complaint about the Fluid credit card as they felt NewDay had carried out reasonable and proportionate lending checks before approving her application and that the credit card appeared affordable based on what it

found. The investigator wasn't persuaded NewDay lent irresponsibly when it approved the Fluid credit card with a limit of £2,000 and didn't uphold this part of her complaint.

NewDay didn't respond to the investigator's view of Miss C's complaint. Miss C confirmed she didn't agree either. As a result, Miss C's complaint has been passed to me to make a decision.

What I've provisionally 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.

When Miss C applied for her Aqua credit card she confirmed her income was £1,400 a year which was calculated to leave her with £1,133 a month. I can see NewDay applied a "cost of living" estimate of £446 a month which appears reasonable. And NewDay says Miss C had existing monthly repayments for towards her debts of £220. But NewDay's lending data doesn't record any figure of Miss C's rent or housing costs. So whilst NewDay calculated Miss C's estimated disposable income was £466 a month, I'm not persuaded that was a reasonable conclusion to reach. In my view, the level and nature of checks completed by Aqua weren't reasonable as they failed to take all Miss C's regular outgoings into account.

I also note that Miss C's provided a copy of her credit reports from January 2022 (the month before her Aqua application was made) that shows a CCJ had recently been recorded on her credit file. In my view, Aqua's lending assessment missed some important information about her circumstances at the time. Given the recent CCJ and lack of reasonable checks before Miss C's application, I haven't been persuaded Aqua lent responsibly. I think the proximity of the CCJ to the application should've been sufficient for NewDay to have declined it without further investigation. In my view, NewDay lent irresponsibly when it approved Miss C's Aqua credit card application with a credit limit of £450.

Given I think NewDay's decision to open Miss C's credit card wasn't reasonable it follows I have the same view about the following credit limit increases it went on to approve. As a result, I intend to direct NewDay to refund all interest, fees and charges applied to Miss C's Aqua credit card from the date of approval onwards.

I've gone on to look at the decision to approve Miss C's Fluid application with a credit limit of £2,000. NewDay's credit search found Miss C owed around £3,300 in unsecured debt. I can

see no new adverse information was recorded on Miss C's credit file. NewDay's lending assessment found Miss C had an estimated disposable income of £345 a month after meeting her existing commitments. But I think it's fair to note that the initial credit limit was high at £2,000, especially when compared against Ms C's income. In my view, the size of the credit limit when compared against Miss C's circumstances ought to have led NewDay to have taken a more detailed approach to her Fluid application.

There were various options available to NewDay, one of which would've been to ask Miss C for her bank statements for the months before her application to get a clearer picture of her circumstances. That's the approach I've taken. A quick look at Miss C's bank statements show she wasn't earning £1,133 a month. Miss C's bank statements show her only regular source of income was from child benefit being received monthly. I've looked at Miss C's sole named bank statements and joint account statements covering the period. Miss C's explained that at the time of her application she was part of an abusive relationship and that her partner would transfer money to her in small amounts across the month to cover some of her outgoings. I can also see Miss C used savings to cover her living costs. In my view, a quick review of Miss C's bank statements would've shown NewDay she wasn't in a position to sustainably afford repayments to a new credit card with a limit of £2,000. I think it's more likely than not that if NewDay had carried out better checks it would've declined Miss C's Fluid application in October 2023. As a result, I intend to uphold Miss C's complaint and direct NewDay to refund all interest, fees and charges applied to her Fluid credit card from the date of approval.

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.

I invited both parties to respond with any additional comments or information they wanted me to consider before I made my final decision. Miss C responded to confirm she accepted. We didn't hear back 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.

As no new information has been provided and Miss C has confirmed she wants to accept the settlement noted in the provisional decision I see no reason to change the conclusions I reached. I still think Miss C's complaint should be upheld, for the same reasons.

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 Miss C's Aqua and Fluid credit cards from the date of approval
- 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 regarding this account from Miss C's credit file.
- Or, if after the rework there is still an outstanding balance, NewDay should arrange an affordable repayment plan with Miss C for the remaining amount. Once Miss C

has cleared the balance, any adverse information in relation to the account should be removed from their 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 16 April 2025.

Marco Manente
Ombudsman