

The complaint

Miss L complains NewDay Ltd trading as Aqua (NewDay) didn't sufficiently check whether she could afford to sustain the repayments when they agreed to lend to her.

In bringing her complaint Miss L is represented by a third party. For ease of reading I will only refer to Miss L in my decision.

What happened

In May 2022 Miss L applied for a credit card account with NewDay. Her application was successful and NewDay issued her with a credit card with a credit limit of £900. No subsequent credit limits were applied. Miss L said she struggled to sustain the repayments and complained to NewDay saying had they properly checked they would have seen the lending wasn't affordable for her.

NewDay said their checks had been reasonable and proportionate. They said they'd considered Miss L's application, credit reference agency (CRA) and statistical data. And based on this information they said their lending decision was fair as Miss L should have had sufficient disposable income to sustain the repayments.

Miss L wasn't happy with NewDay's response and referred her complaint to us.

Our investigator said NewDay's checks had been reasonable and proportionate. And that they'd made a fair lending decision.

Miss L didn't agree and asked for an ombudsman to decide.

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.

I appreciate Miss L will be disappointed by my decision but having done so I'm not upholding her complaint. I'll explain my reasons for this.

I've considered the relevant rules, guidance and good industry practice when someone complains about irresponsible and/or unaffordable lending. The Consumer Credit sourcebook (CONC) is the relevant guidance for this type of complaint.

There are two overarching questions I need to consider deciding what's fair and reasonable in all the circumstances of the complaint. These are:

1. Did NewDay complete reasonable and proportionate checks to satisfy themselves that Miss L would be able to repay the credit in a sustainable way?

a. if so, did NewDay make a fair lending decision?

b. if not, would reasonable and proportionate checks have shown that Miss L could

sustainably repay the borrowing?

2. Did NewDay act unfairly or unreasonably in some other way?

CONC says a lender should take reasonable steps to estimate a consumer's income and non-discretionary spending when assessing their credit worthiness. This means before agreeing to lend to Miss L NewDay needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to the type and amount of credit, the consumer's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances.

What's important to note is that NewDay provided Miss L with a revolving credit facility rather than a loan. Unlike a loan there isn't a fixed amount to be repaid each week/month. The required payment is dependent on the monthly transactions made and any outstanding balance. For this type of credit NewDay is required to understand whether the credit limit they've applied can be repaid within a reasonable period, rather than in one go. NewDay was approving a credit limit of £900. CONC requires a lender to assume when carrying out their affordability assessment that the entire credit limit is drawn down at the earliest opportunity and repaid in equal instalments over a reasonable period. So, I think NewDay could have reasonably assumed Miss L would need to be able to sustain monthly repayments of around £45 to settle the account within a reasonable period.

I've looked at what checks NewDay said they did when initially approving Miss L's application. Miss L declared an annual income of £27,000 a year which NewDay equated to £1,913.30 a month. NewDay cross checked this with the CRA. These checks showed Miss L hadn't defaulted on any previous credit commitments, neither had she entered any payment arrangements or any high-cost short term lending commitments. Miss L's credit commitments showed as being £474 a month. NewDay also used statistical data, which CONC allows them to do, to determine Miss L's non-discretionary spending for living and housing costs. Taking all this data, they found Miss L would have £776.20 a month in disposable income. And based on this information they deemed the lending was affordable.

Given the type and amount NewDay was lending to Miss L I'm satisfied their checks were reasonable and proportionate as I think any further checks would have been disproportionate to the amount being lent. And I haven't seen any evidence that ought to have raised concerns to NewDay that Miss L wouldn't have been able to sustain the repayments as these showed Miss L had a regular income, was maintaining her existing credit commitments and that she'd sufficient disposable income to have been able to sustain her repayments. So, I'm satisfied based on these checks NewDay's decision to lend to Miss L was fair.

I know Miss L will be disappointed by my decision, but I can't ask NewDay do something different if I can't find they did anything wrong.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. But for the reasons I've already given, I don't think NewDay lent irresponsibly to Miss L or otherwise treated him unfairly. I haven't seen anything to suggest that s.140A or anything else would, given the facts of this complaint, lead to a different outcome here.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 15 October 2025.

Anne Scarr
Ombudsman