

## **The complaint**

Mr L complains that NewDay Ltd was irresponsible in its lending to him. He wants all interest and charges refunded along with statutory interest and any adverse information about this account removed from his credit file.

Mr L is represented by a third-party but for ease of reference I have referred to Mr L throughout this decision.

## **What happened**

Mr L was provided with an Aqua credit card by NewDay in June 2017 with an initial credit limit of £600. The credit limit was increased on three occasions to £3,100 in August 2018. Mr L said that when the credit was provided, he had multiple other credit commitments and was reliant on his overdraft. He said that adequate checks weren't carried out before the account was provided and credit limit increases applied. He said he struggled to make his repayments and that he had to borrow from friends and family.

NewDay issued a final response dated 7 August 2024 not upholding this complaint. It said that before the account was provided it carried out credit worthiness and affordability checks which supported the lending being affordable. It said further checks were undertaken before the credit limit increases were offered. It didn't accept the lending was irresponsible.

Mr L referred his complaint to this service.

Our investigator thought the checks carried out before the account was provided were proportionate and as these didn't suggest the initial credit limit of £600 to be unaffordable, he didn't think that NewDay was wrong to provide this credit. However, he didn't think that the credit limit increases should have been applied. He noted that when the first credit limit increase was offered Mr L was in arrears on an account and had incurred a recent overlimit charge. He thought this suggested he was struggling to maintain his existing level of credit.

NewDay didn't agree with our investigator's view. It said that Mr L wasn't in arrears before the first credit limit increase, and he had made payments exceeding his minimum monthly payments in the preceding months. It said that there were one-month external arrears recorded before the limit increase, but these were brought up to date. It said that Mr L exceeded his credit limit in two months but only one charge was applied showing the balance was decreased within a short timeframe. It didn't accept that the information suggested the lending was unaffordable or unfair.

Our investigator responded to NewDay's comments noting that Mr L had missed payments to credit commitments in the months leading up to the first credit limit increase. NewDay accepted this but didn't think it was sufficient to mean the additional credit shouldn't have been provided.

As a resolution hasn't been agreed, this complaint has been passed to me, an ombudsman, to issue 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.

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.

Mr L was provided with a credit card account in June 2017 with an initial credit limit of £600. Before the account was provided, NewDay gathered information about Mr L's income and carried out a credit check. Mr L declared an annual income of £21,000. The credit check showed that it was 28 months since Mr L's last public record and 42 months since his last default. His active accounts were recorded as up to date. So, while Mr L had adverse results returned from the credit check, as these were historic and his recent credit data didn't raise concerns, I do not find that this alone meant the lending shouldn't have been provided.

Considering the amount of credit being provided and the repayments on this, compared to Mr L's income and noting he didn't appear to be struggling with his current commitments, I think the checks carried out before the account was opened were proportionate. As these didn't suggest the lending to be unaffordable for Mr L, I do not find I can say that NewDay was wrong to provide Mr L with the credit card account with an initial limit of £600.

Mr L was offered a credit limit increase to £1,150 in December 2017. At this point, NewDay had details about how Mr L had managed his account since opening, and it had information from the credit reference agencies about Mr L's external commitments. Mr L had exceeded his credit limit in the two months before the credit limit increase was offered, although I note that only one charge was applied. While I do not find that this alone meant that further credit shouldn't have been provided, I also note that the external credit data showed Mr L to be in arrears with an account for two months at the time of the limit increase offer. Mr L had experienced previous financial difficulties and while these were historic, I think it reasonable to note this given the adverse information at the time. Taking the above into consideration, I think the account management combined with the external arrears, should have raised concerns that Mr L may have been beginning to struggle with his financial management and so I do not think it was responsible for NewDay to increase Mr L's credit limit at that time. I am therefore upholding this complaint from the first credit limit increase.

I've also considered whether NewDay acted unfairly or unreasonably in some other way given what Mr L has complained about, including whether its relationship with Mr L 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 Mr L 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**

As I don't think NewDay should have increased Mr L's credit limit above £600, I don't think it's fair for it to charge any interest or charges on any balances which exceeded that limit. However, Mr L has had the benefit of all the money he spent on the account so I think he should pay this back. Therefore, NewDay should:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £600 after 27 October 2017.
- a) If the rework results in a credit balance, this should be refunded to Mr L 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 after 27 October 2017 regarding this account from Mr L's credit file.
- b) Or, if after the rework the outstanding balance still exceeds £600, NewDay should arrange an affordable repayment plan with Mr L for the remaining amount. Once Mr L has cleared the outstanding balance, any adverse information recorded after 27 October 2017 in relation to the account should be removed from their credit file.

If NewDay has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly .

\*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Mr L a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

### **My final decision**

My final decision is that NewDay Ltd 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 L to accept or reject my decision before 18 June 2025.

Jane Archer  
**Ombudsman**