

## The complaint

Mr N complains, through his representative, that NewDay Ltd (“NewDay”) gave him two credit cards and then then increased his credit limit when he couldn’t afford them.

## What happened

Mr N had two NewDay credit cards an Opus branded one and an Aqua branded card and I’ve set out below the lending history of each card below.

Opus card ending 8945

Date	Event	Credit limit	Changed to
August 2008	Card approval	£6,000	-
March 2011	Limit decrease	£6,000	£5,900
July 2013	Limit increase	£5,900	£7,650
August 2013	Limit decrease	£7,650	£6,200
June 2014	Limit decrease	£6,200	£6,100
June 2015	Limit increase	£6,100	£7,950
March 2016	Limit increase	£7,950	£10,350
October 2016	Limit increase	£10,350	£11,950

Aqua card ending 4785.

Date	Event	Credit limit	Changed to
August 2017	Card approval	£900	-
February 2018	Limit increase	£900	£1,500
June 2018	Limit increase	£1,500	£2,700
October 2018	Limit increase	£2,700	£3,950
October 2019	Limit decrease	£3,950	£3,650
July 2023	Limit decrease	£3,650	£3,100

Following Mr N’s complaint about the lack of affordability checks, NewDay issued a final response letter in August 2024, and it explained why it was going to uphold the Opus card from 11 November 2016 and it would close the card to further spending. NewDay went on to say that it hadn’t made an error by providing the Aqua card.

After the complaint had been referred to the Financial Ombudsman Service one of our investigator’s issued a view to say that NewDay didn’t have any information or evidence as to the types of checks that it performed on the Opus credit card up until November 2016 and Mr N hadn’t provide anything about his situation at the time. So, he wasn’t able to uphold the complaint about the Opus card beyond what NewDay had already offered.

The investigator also concluded the Aqua card ought to not have been granted because the credit check results received by NewDay showed that Mr N was already having financial difficulties.

Mr N's representative agreed with the outcome the investigator reached. However, no response has been received from NewDay, despite having been given sufficient time and so the unresolved complaint has been passed to me 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.

Our approach to unaffordable/irresponsible lending - including all the relevant rules, guidance, and good industry practice - is set out on our website and I have followed it here.

NewDay is required to lend responsibly. It needed to conduct checks to make sure that the credit it was giving to Mr N was affordable and sustainable. Such checks needed to be proportionate to things like the credit limit it offered Mr N, how much she had to repay (including interest and charges) each month, his borrowing history with it and what it knew about his circumstances. But there is no set list of checks it had to do.

This means to reach my conclusion I need to consider if NewDay carried out proportionate checks at the time it provided the card and when it approved the credit limit increase for Mr N, and if so, did it make fair lending decisions based on the results of its checks; and if not, what better checks would most likely have shown. I'll also consider whether NewDay acted unfairly towards Mr N in some other way.

We've also not heard from NewDay so I don't know, what, it thinks about the investigator's assessment.

#### *Opus Credit Card*

Mr N's representative agreed with the outcome reached in the complaint which included not upholding the complaint from inception until NewDay had upheld the complaint from November 2016. NewDay hasn't responded.

To me the complaint about this card is no longer in dispute so I no longer need to make a finding about it. Based on the most recent statement of account an outstanding balance remains due and I would remind NewDay that should Mr N need help and support that it treats him fairly and with forbearance.

#### *Aqua Card*

NewDay says when it approved the credit card, that it asked for Mr N's income which he declared to be £36,000 per year gross. It then looks like NewDay went about converting that into a monthly figure of £2,086.10 – it also seems that this may have been checked with a credit reference agency for its accuracy

NewDay went about working out Mr N's monthly living costs using a combination of data including the credit check results, an internal credit modelling based on the results of these checks it worked it that Mr N had disposable income of £618 per month. So, it may have appeared Mr N could afford the credit limit of £900.

It also says a credit search was carried out and the summary of the results it has provided. While it didn't show that Mr N had any County Court Judgements or had a bankruptcy or IVA within the last three years.

The credit check results showed fairly recently and not that long before the card was

approved that Mr N had experienced difficulties to the extent that priority debt, his mortgage, had entered arrears. Which are signs that a consumer, in this case Mr N, was likely experiencing financial difficulties and so couldn't take on any further credit. It was also told about a default which had been applied under a year before the granting of the card.

NewDay, despite being given the chance hasn't come back to why this is an unreasonable interpretation of the information it has provided and so I am upholding the complaint about the Aqua card and conclude it ought to not have been provided.

The information about the credit commitments was available to NewDay at the time, which showed Mr N wouldn't be able to take on and pay this case in a sustainable manner and so I've concluded NewDay ought to not have approved the card.

As I've found NewDay ought to not have approved the credit card in the first place it therefore follows the credit limit increases shouldn't have been approved either. I've set out below what it needs to do in order to put things right for him.

I've considered whether the relationship between Mr N and NewDay might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for him 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 lent the Aqua card to Mr N, I don't think it's fair for it to charge any interest or charges on the card. However, Mr N has had the benefit of all the money he spent on the account so I think he should pay this back. In order to put things right NewDay should;

- For the Opus card NewDay should, if it hasn't already done so pay the compensation payment hat it outlined in the final response letter.

For the Aqua card it should;

- Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied to balance since the start of the account.
- If the rework results in a credit balance, this should be refunded to Mr N 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 about this account from Mr N's credit file.
- Or, if after the rework an outstanding balance remains due still, NewDay should arrange an affordable repayment plan with Mr N for the remaining amount. Once Mr N has cleared the outstanding balance, any adverse information recorded in relation to the account should be removed from his credit file.

\*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Mr N a certificate showing how much tax it 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 I uphold Mr N's complaint.

NewDay Ltd should put things right for Mr N as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 3 July 2025.

Robert Walker  
**Ombudsman**