The complaint

Miss C complains that NewDay Ltd trading as Aqau (NewDay) failed to properly check whether she could afford credit limit increases on her credit card account.

What happened

Around December 2016 Miss C applied for a credit card with NewDay. Her application was successful and NewDay issued her with a credit card with a credit limit of £450. NewDay increased Miss C's credit limits incrementally several times as shown below:

Date	From	To	Increased by
Jun-17	£450	£1,450	£1,000
Oct-17	£1,450	£2,850	£1,400
Feb-18	£2,850	£4,000	£1,150
Sep-20	£4,000	£4,800	£800
Mar-23	£4,800	£5,600	£800
Jan-24	£5,600	£7,100	£1,500

Miss C said after the initial opening of the account NewDay hadn't checked whether she could afford the credit limit increases. She said she'd tried to close the account after she'd moved the balance to another credit card offering a promotional rate, but NewDay didn't close her account. She said this had caused her to spiral into debt. Also, after she was late making a payment NewDay had increased the interest rate being applied. She complained to NewDay.

NewDay said their checks were reasonable and proportionate. They'd used application, credit reference agency (CRA) and internal data to assess the affordability of the lending. And based on these they said they'd made a fair lending decision. Miss C showed no signs of financial vulnerability and was managing her credit card account well.

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

Some of the lending events happened more than six years ago but NewDay has consented to us considering all of Miss C's complaint. Our investigator didn't comment on the initial account opening as Miss C was complaining only about the credit limit increases. She said the increase to £1,450 was fair but for the subsequent credit limit increases NewDay hadn't done enough to verify Miss C's income. Had they done so they would have seen her income had significantly reduced and that their lending decision was unfair. She asked NewDay to put this right.

NewDay didn't agree they said their checks didn't raise any concerns so there wasn't any reason to request additional information before offering the credit limit increase to Miss C. NewDay 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.

Having done so I'm partially upholding this complaint. I'll explain why.

I've considered the relevant rules and guidance on responsible lending set by the regulator, laid out in the consumer credit handbook (CONC). In summary, these say

1. Did NewDay complete reasonable and proportionate checks to satisfy themselves that Miss C 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 C could sustainably repay the borrowing.

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

This assessment is sometimes referred to as an "affordability assessment" or "affordability check". We consider that the checks should be "borrower-focused" – so NewDay had to think about whether repaying the increased lending would be sustainable. Meaning NewDay needed to ensure that making the repayments wouldn't cause Miss C undue difficulty or significant adverse consequences. In other words, it wasn't enough for NewDay to simply think about the likelihood of it getting their money back – they needed to consider the impact of the repayments on Miss C herself.

What's important to note is that NewDay had provided Miss C with a revolving credit facility rather than a loan. This means there isn't a fixed amount to be repaid each month. Any repayment would be calculated dependent on Miss C's monthly transactions and any outstanding balance. CONC requires a lender to assume when carrying out their assessment that the entire credit limit is drawn down at the earliest opportunity and repaid in equal instalments over a reasonable period. So, when NewDay opened Miss C's credit card account the initial credit limit of £450 I think NewDay could have reasonably assumed Miss C would need to be able to pay around £22.50 a month.

There isn't a set list of checks a lender has to do. But when deciding whether Miss C could afford a credit limit increase in June 2017 NewDay needed to consider things such as (but not limited to): the amount of credit, the size of any regular payments (taking into consideration the rules and guidance in CONC relating to assumptions concerning revolving credit), the cost of credit and the consumer's circumstances. By increasing Miss C credit limit by a further £1,000 I think NewDay could have reasonably assumed Miss C would need to be able to repay an additional £50 a month, with the assumption the increase in her limit would be fully drawn down, in order to clear the full amount owed within a reasonable period of time.

CONC says a lender should take reasonable steps to estimate a consumer's current income and expenditure. It also says a lender shouldn't solely rely on a consumer's declared income but should seek validation through an independent source (CRA) or third party. So, I've considered the checks NewDay did.

From their records I can see upon the opening of the account they'd assessed Miss C's monthly income to be £1,292.30, her cost of living to be £421.23, her credit commitments to be £199 and her housing costs to be £200.86. This meant Miss C should have had a disposable income of £471.21.

From NewDay's records I can see when considering the credit limit increase in June 2017 that they carried out CRA checks and reviewed how Miss C had managed her account with them so far. NewDay said these checks showed Miss C's external position hadn't worsened; her account was being managed well too. Miss C was making the required repayments, often paying over the minimum payment. Miss C didn't show any of the usual indicators of financial difficulties, such as late payments, missed payments, or overlimit fees. Although I can see she did make a cash advance in March 2017, and her outstanding balance was always close to her credit limit. For her other lending products NewDay said Miss C was managing these well as there weren't any missed payments or arrears.

While I wouldn't have expected NewDay to carry out a full income and expenditure check as Miss C's account with them was being managed well and nothing new was flagging externally. I think they should have checked Miss C's current income. Miss C has provided her income for the three months prior to the credit limit increase. And this shows she'd an average monthly income of around £1,480. So, I'm satisfied had NewDay confirmed Miss C's income when added to the checks they did, the lending was affordable for her.

In October 2017, NewDay increased Miss C's credit limit by a further £1,400 to £2,850. This would mean NewDay needed to check whether Miss C would be able to sustain an additional monthly repayment of around £70 a month. NewDay again checked their internal data and did a CRA check. But I can see that Miss C had quickly utilised most of her previous credit limit and as I think this was a significant increase within a short time I'd have expected NewDay to do more as they needed to take reasonable steps to estimate Miss C's current income and non- discretionary spending.

While I think NewDay should have done more checks this doesn't automatically mean NewDay shouldn't have lent to Miss C, only that I think they should have looked into her financial circumstances further. So, I need to see what they would have found if they had. I don't necessarily expect this to have been done by obtaining Miss C's bank statements, but for our purposes these are a good indicator of her financial situation.

Miss C has provided her bank statements for the three months prior to the credit limit increase in October 2017. Form these I can see Miss C's income had reduced significantly with her average salaried income now being around £735 a month. Simply using NewDay's estimated outgoings from when Miss C opened her account shows that she wouldn't have had sufficient disposable income to sustain her repayments. As outlined above any lending should be borrower focussed considering the impact on Miss C being able to sustain the repayments. With around a 50% decrease in salary I think it would have been clear had NewDay checked her income alone that Miss C would struggle to sustain any further increases in her monthly outgoings. So, I think had NewDay seen Miss C's current income they wouldn't have increased her credit limit. And it follows that any subsequent credit limit increase(s) shouldn't have been applied.

Miss C has complained about NewDay not closing her account when she'd moved her balance to another credit card. But as explained by our investigator NewDay would have needed to keep the account open to make sure no further interest or charges fell due which should be no longer than 30 days. A lender wouldn't be expected to close an account where there is an outstanding balance. I can see Miss C's balance was zero around April 2021, and that NewDay looked to make the account dormant, but further activity on the credit card happened.

Miss C also said she's unhappy NewDay increased the interest rate on her account following a late payment. Something a business can do with the relevant notice give.

I’ve also considered whether NewDay acted unfairly or unreasonably in some other way given what Miss C has complained about, including whether their relationship with her might have been viewed as unfair by a court under Section 140A Consumer Credit Act 1974. But I’m satisfied the redress I’ve 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.

Putting things right

While I don’t think NewDay should have increased Miss C’s credit limit from October 2017, Miss C has had the benefit of the monies she borrowed. So, I think its only fair that she should pay this back. But I don’t think its fair that she should pay any interest and charges that have been applied to her account from when this credit limit increase was applied.

My final decision

I partially uphold this complaint. And ask NewDay Ltd trading as Aqua to:

- Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied from October 2017 to balances above £1,450. 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 remove all adverse information recorded after 2 October 2017 regarding this account from Miss C’s credit file. Or,
- If after the rework the outstanding balance still exceeds £1,450 NewDay should arrange an affordable repayment plan with Miss C for the remaining amount. Once Miss C has cleared the outstanding balance, any adverse information recorded after 2 October 2017 in relation to the account should be removed from her credit file.

His Majesty’s 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 they intend to apply the refund to reduce an outstanding balance, they 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 23 October 2025.

Anne Scarr
Ombudsman