

The complaint

Mr W complains that NewDay Ltd trading as Aqua irresponsibly provided him with a credit card.

Mr W is supported in bringing this complaint by a representative. But for ease of reading, I'll refer to actions and submissions as being those of Mr W himself.

What happened

NewDay provided Mr W with a credit card in March 2018 with a limit of £300. The limit increased in the following way:

- Increased in January 2019 to £1,050
- Increased in May 2019 to £1,800
- Increased in September 2019 to £2,800
- Increased in January 2020 to £3,800
- Increased in July 2020 to £4,800
- Increased in January 2021 to £6,300
- Increased in April 2021 to £8,000

In summary, and amongst other points, Mr W says he already had multiple other credit commitments when he was provided with the credit and was in arrears with other lenders and his household bills. He says he wasn't asked enough questions to determine whether he could afford the lending, and he had to take out additional lending to pay for the credit he'd been provided with.

NewDay reviewed matters but didn't uphold the complaint. In summary, it said its checks revealed that all credit limits provided were likely to be affordable. Mr W remained unhappy and brought his complaint to this service.

An Investigator here reviewed matters and thought NewDay didn't act unfairly when it opened the card for Mr W. But she thought it shouldn't have provided the first credit limit increase because Mr W had trouble managing the previous limit. She therefore concluded that none of the following increases should have been provided either.

Mr W accepted this position. NewDay disagreed with it and, in summary, said that its checks at the time revealed that Mr W would have enough disposable income to afford the first credit limit increase and he also had low unsecured debt.

Overall, an agreement hasn't been reached. So, the case was passed to me to decide.

I issued a provisional decision, which also forms part of this decision. I've included this below:

"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.

The rules and regulations in place at the time NewDay provided Mr W with credit required it to carry out a reasonable and proportionate assessment of whether he could afford to repay what he owed in a sustainable manner. This is sometimes referred to as an 'affordability assessment' or 'affordability check'.

The checks had to be 'borrower' focused. This means NewDay had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Mr W. In other words, it wasn't enough for NewDay to consider the likelihood of it getting the funds back – it had to consider the impact of any repayments on Mr W.

Checks also had to be 'proportionate' to the specific circumstances of the lending. In general, what constitutes a proportionate affordability check will be dependent on a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they were seeking. I've kept all of this in mind when thinking about whether NewDay did what it needed to before lending to Mr W.

The opening limit of £300 was provided in March 2018. As part of its submissions, NewDay says it uses various sources, including its internal and external affordability checks, data from the Credit Reference Agencies and the consumer's declared costs to calculate affordability before deciding whether to lend.

With this in mind, NewDay recorded Mr W's gross annual salary as £52,000, which was equated to a net monthly income of around £2,758. NewDay then considered Mr W's expenditure, including credit commitments, living costs and housing costs. After doing so, it calculated that Mr W had an Effective Disposable Income ("EDI") of around £1,247. I've understood this to be a monthly figure.

NewDay also completed a credit check which showed no recent issues with credit, or any adverse information recorded such as defaults. NewDay needed to be satisfied that Mr W could repay a modest limit of £300 within a reasonable period of time. With this in mind, I think the checks carried out here were proportionate and indicated that Mr W was likely to be able to manage the limit. So, I don't think it was wrong for NewDay to provide the opening limit of £300.

The limit was increased to £1,050 around ten months later in January 2019. NewDay used external sources to understand more about Mr W's income and expenditure. Having done so, it thought he had sufficient disposable income to be able to afford the increase. It also completed a credit check which didn't show any recent issues with managing credit.

I'm conscious that Mr W did appear to incur some late and overlimit fees in some of the months leading up to the increase, though each time – as I understand it – they appear to have been reversed the following month. I'm also conscious that Mr W had low external debt and NewDay's checks revealed that he likely had enough disposable income to afford the repayments. Therefore, overall, I don't think this credit limit increase was unreasonable to provide.

The credit limit was then increased incrementally over a period of around two years to £8,000. During this time, NewDay completed credit checks which broadly showed that Mr W's debts were at a manageable level. Whilst there was some historic adverse information, the checks showed Mr W's current debt was being managed well. NewDay's

checks before each credit limit increase also suggested that Mr W was likely to have enough disposable income to afford the repayments on each new limit.

Importantly, during this period where the credit limit was being increased, Mr W was managing his NewDay account well and was often making significant overpayments to the account. For example, he often paid around double the required amount and sometimes made much larger payments than this.

Amongst other points, the relevant rules and guidance set out that a firm may have regard, where appropriate, to information obtained in the course of previous dealings with the customer. This can be found in the Financial Conduct Authority (FCA) Consumer Credit Sourcebook (CONC) – CONC 5.2A.23. In other words, NewDay could consider how Mr W was managing his existing credit limits before deciding whether to provide him with more. Here, Mr W's management of the account would have indicated to NewDay that not only could he afford the amount he already had but was likely to be able to afford much more.

The passage of time is a relevant consideration in CONC 5.2A.23, and it sets out that a firm should consider whether the passage of time could have affected the validity of the information. With this in mind, I'm conscious that all the credit limit increases took place over a period of just over two years. And in any case, NewDay carried out checks at each increase to understand more about Mr W's external credit picture and whether he likely had enough disposable income to afford the increases. The information all revealed that the lending was likely to be affordable. So, in the circumstances of this particular case, based on all the information gathered I don't think it was unreasonable to provide the credit limit increases.

Therefore, for the reasons I've explained, I currently don't think that NewDay acted unfairly or unreasonably here in its decision to provide Mr W with the credit card and limit increases. It follows that I'm not intending to uphold this complaint.

Separately, whilst I'm not intending to uphold the complaint, I do want to remind NewDay of its obligations to exercise forbearance moving forward. I would certainly encourage Mr W to keep in regular contact with NewDay about any difficulties he's facing.

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

My provisional decision

My provisional decision is that I'm not intending to uphold this complaint."

NewDay didn't dispute the decision, but Mr W did. In summary, he reiterated that he couldn't afford the card and was always at his credit limit. He says he wasn't in a financial position to afford the increases, considering that he was threatened with a County Court Judgment (CCJ) around the same time. He also says there were some increases that took place when he had lost his job, and he was repaying the card using his redundancy payment.

In relation to the refunded charges that took place soon after Mr W took the card, he said the charges were only refunded because he called NewDay to say he couldn't afford the payments. Mr W also reiterated the impact the lending had on him, and that he had to take out a debt consolidation loan to repay the card.

This service asked both parties for any evidence relating to the refunded charges. NewDay said it refunds charges within a 12-month period as a goodwill gesture usually either when a customer has faced unexpected difficulties or hasn't had funds refunded recently. It says it had no record of Mr W contacting it to say he was struggling to make payments. If he had, it would have offered support such as setting up a repayment plan, freezing interest and charges or giving him some breathing space to help him get back on track.

As outlined, Mr W was also asked for evidence showing that he contacted NewDay to say he was struggling with the card. However, Mr W didn't respond to this service's request by the deadline set. So, I've considered it appropriate to move forward with the information available to me.

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've not changed the outcome I reached in my provisional decision. However, I'll address the points Mr W raised in response to it.

Mr W reiterated that he was struggling financially around the time of the lending. Amongst other points, he says he was using the full limit available to him on the card and he couldn't afford it. He also says he lost his job, he was making repayments to the card from his redundancy pay, and he was also threatened with a CCJ around the time the increases took place. As I understand it, this isn't in relation to correspondence from NewDay about this card in question.

I was sorry to hear about the difficulties Mr W was facing at the time. However, as outlined in my provisional decision, I think the checks carried out by NewDay at the time were proportionate and revealed that the lending was likely to be affordable. Additionally, Mr W was often making significant overpayments to the account and paying in excess of the required minimum payment. The checks NewDay did carry out suggested there were no recent issues recorded with Mr W's external debts at the time of each check, and he had enough disposable income to afford the increases.

It's certainly possible that the checks NewDay carried out weren't reflective of the full extent of Mr W's circumstances, such as the fact that Mr W unfortunately lost his job and that repayments were coming from his redundancy pay. However, I'm not persuaded that this is a failing on the part of NewDay. The results of its checks suggested the lending was likely to be affordable and didn't reveal the difficulties Mr W says he was facing. Whilst I appreciate what Mr W says about how he was making the repayments, I'm not persuaded NewDay ought reasonably to have been aware of this. It would have been seen that Mr W was simply often making overpayments towards the card. And, as outlined, I don't think it needed to carry out any further checks into Mr W's circumstances given the results of its checks.

In relation to the refunded charges before the first credit limit increase took place, Mr W says this only happened because he contacted NewDay to say he couldn't afford the repayments. NewDay can't provide any call recordings as it no longer holds these; I don't think that's unreasonable given that it has been several years since matters took place. NewDay has provided contact notes from the time, though these don't evidence that Mr W called to say he was struggling with the card at the time.

This service asked Mr W whether he had any evidence to support that he contacted NewDay to say he couldn't afford the repayments, however he didn't respond by the deadline. So, I've thought about the available information before me. I'm conscious that NewDay has said it

might refund fees for a number of reasons. So, whilst it's certainly possible that Mr W was struggling with repayments, it's also possible that these could have been unexpected difficulties that were a short-term issue. Additionally, some of the fees could have been refunded simply because Mr W hadn't recently had fee refunds, though it's unclear how likely this would have been, considering how long Mr W held the card for.

In any case, I've not seen any notes to suggest that Mr W contacted NewDay to say he was struggling with the account. Additionally, NewDay carried out checks before providing the limit increase which showed that Mr W had low external debt at the time and that he likely had enough disposable income to afford the increased repayments. I'm also conscious that Mr W then went on to broadly manage the card well, often paying in excess of the minimum payment. So, considering all the information in the round, I don't think it was unreasonable for NewDay to provide lending to Mr W.

Therefore, whilst I'm sorry to disappoint Mr W, I remain of the opinion that NewDay didn't act unfairly or unreasonably in its decision to provide him with the credit card and limit increases. Finally, I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think NewDay lent irresponsibly to Mr W or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 5 December 2025.

Hana Yousef
Ombudsman