

The complaint

Miss P complains that NewDay Ltd trading as Aqua (NewDay) acted irresponsibly by agreeing to lend to her.

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

What happened

Around May 2019 Miss P applied for a revolving credit facility (credit card) with NewDay. Her application was successful and NewDay issued her with a credit card that had a credit limit of £1,200. Around September 2019 NewDay increased Miss P's credit limit by £1,750 to £2,950. And by a further £100 around July 2020 (during the pandemic) to £3,050. Miss P complained to NewDay saying they hadn't sufficiently checked to see if she could sustain the repayments. And by agreeing to the lending they'd caused her financial loss.

NewDay said their checks had been reasonable and proportionate using application, credit reference agency (CRA) and statistical modelling data to assess Miss P's credit worthiness. And based on these checks they'd made a fair lending decision.

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

NewDay explained that the £100 credit limit increases they applied around July 2020 was for administrative purposes caused by the global pandemic. Following pandemic guidance Miss P's account was frozen and the £100 credit limit increase was applied to prevent Miss P incurring over limit charges.

Our investigator considered the checks NewDay did and found they were reasonable and proportionate. They said the lending decision(s) were fair and so didn't ask NewDay to do anything differently.

Miss P disagreed 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 my decision will disappoint Miss P but having done so I'm not 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 that before NewDay offered the credit facility they needed to complete reasonable and proportionate checks to be satisfied Miss P would be able to repay the debt in a sustainable way.

In deciding what was proportionate 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.

This means to reach my decision I need to consider if NewDay carried out proportionate checks at the time of each lending decision; if so, did they make fair lending decisions based on the results of these checks; and if not, what better checks would most likely have shown.

What's important to note is that Miss P was provided with a revolving credit facility rather than a loan. As it was revolving credit there's no set amount that needed to be repaid each month, but CONC requires a firm 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. NewDay provided an initial credit limit of £1,200, so could assume Miss P would need to be able to pay around £60 each month to clear any outstanding balance within a reasonable period.

CONC says a lender should take reasonable steps to estimate a consumer's income and non-discretionary spending. It says generally a lender shouldn't solely rely on a consumer's declared income but seek validation through an independent source such as a CRA or third party. It also allows for the use of statistical data in determining a consumer's non-discretionary spending. So, I've considered the checks NewDay did and what these showed.

From Miss P's application she declared an annual income of £28,500. NewDay cross checked this with a CRA through a Current Account Turn Over (CATO) check which assessed Miss P's income to be £1,746.80. The CRA check showed Miss P had credit commitments of £375. And using statistical modelling housing costs of £256.76, and cost of living outgoings of £439.86. This meant Miss P should have had a disposable income before factoring in the new lending of £658.39. Her debt-to-income ratio was 12.55%. From the CRA checks NewDay saw Miss P's last default was 13 months prior to her application.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – it doesn't automatically mean that a lender won't offer borrowing. Here, NewDay considered the information that Miss P had on her credit file and still made a decision to lend which, in the circumstances, I think was reasonable. As the default would be considered as historic, and the CRA check showed Miss P was now managing her active accounts well with no evidence of missed or arranged payments.

So, I'm satisfied the checks NewDay did were reasonable and proportionate for the type and amount of credit they were providing. And I don't think that there was anything immediately obvious in the information that they had, including Miss P's existing credit, which meant they shouldn't rely on it. So, I don't think NewDay needed to have asked Miss P to provide further evidence in support of her expenditure before providing her with a credit limit in this instance. And based on these checks Miss P should have had sufficient disposable income to sustain the repayments. So, I'm satisfied NewDay made a fair lending decision.

Around September 2019 NewDay increased Miss P's credit limit by £1,750. So, in assessing her credit worthiness I think they needed to determine whether Miss P could sustain an additional monthly repayment, based on the full amount being drawn down, of £87.50. NewDay again validated Miss P's income through a CATO check and further CRA checks. These are industry standard ways of assessing income and expenditure without requesting proof of income and expenditure, which wouldn't be proportionate for each lending decision. The CATO check showed Miss P's income to be around £3,572 a month, a significant increase since the initial account opening.

I can't rule out that Miss P may have had a pay rise/promotion/job change which would explain the difference in the two figures, or another source of income. So, I've considered whether the increased CATO figure would ultimately affect the estimated disposable income to a point where further checks should have been completed by NewDay.

NewDay through the CRA checks considered Miss P to have credit commitments of £83, loan repayment of £146, rent of £559 and cost of living outgoings of £533. Had NewDay used Miss P's initial income amount of around £1,747 this should have left Miss P with a disposable income before factoring in the new lending of £426. Which would show the lending to be sustainable. And had NewDay checked Miss P's salaried income this would have shown her average across the three months was around £1,685, which if used in their credit worthiness assessment would have seen Miss P with a disposable income of £364 before factoring in the new lending (£87.50), which I'm satisfied should have been a sufficient disposable income to cover any discretionary or unexpected costs.

NewDay also had the additional evidence as to how Miss P was managing her account with them. This showed over the three months Miss P had repaid on average around £210 each month, which showed the additional lending ought to have been sustainable.

While the ability to repay credit without issue doesn't mean that there isn't financial distress. A good repayment history is a fairly reliable indicator that an individual can manage debt responsibly. And the opposite is also usually the case, if credit is unaffordable this is usually demonstrated by a problematic repayment history, either to the credit or other bills. Also, the checks showed Miss P's overall indebtedness remained stable, showing her outstanding loan account balance had reduced and while her revolving credit balance had increased this was reflective of her NewDay credit facility.

So, I'm satisfied the checks NewDay did were reasonable and proportionate for the type and amount of credit they were providing. And I don't think that there was anything immediately obvious in the information that they had which meant they shouldn't rely on it. So, I don't think NewDay needed to have asked Miss P to provide further evidence in support of her income or expenditure before they increased her credit limit. And based on these checks Miss P should have had sufficient disposable income to sustain the repayments. So, I'm satisfied NewDay made a fair lending decision.

I can see an additional £100 was added to Miss P's credit limit as a preventative measure to stop Miss P incurring any additional charges. As this was during the global pandemic, I'm satisfied this didn't cause Miss P any financial detriment but was a support tool used during this difficult financial period.

I've also considered whether NewDay acted unfairly or unreasonably in some other way given what Miss P 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 for the reasons I've already given, I don't think NewDay lent irresponsibly to Miss P or otherwise treated her 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 P to accept or reject my decision before 12 January 2026.

Anne Scarr
Ombudsman