

## **The complaint**

Mrs S complains that NewDay Ltd trading as Aqua (NewDay) acted irresponsibly by lending to her.

## **What happened**

Around January 2023 Mrs S applied for a revolving credit facility (credit card) with NewDay. Her application was successful with NewDay issuing a credit card that had a credit limit of £450. NewDay increased Mrs S' credit limit incrementally, around May 2023 to £1,450 and around September 2023 to £2,200. Mrs S complained to NewDay saying they hadn't properly checked she could afford to sustain the repayments. And by lending to her caused her to spiral into debt.

NewDay said their checks were reasonable and proportionate. And based on these checks the lending decision(s) they made were fair as Mrs S should have had sufficient disposable income to sustain the repayments.

Mrs S wasn't happy with NewDay's response and referred her complaint to us.

Our investigator said NewDay's checks for the initial account opening and first credit limit increase were reasonable and proportionate, and that they'd made a fair lending decision. But didn't think they'd checked sufficiently for the second credit limit increase. Having considered what these further checks could have shown they said NewDay hadn't acted unfairly by lending to Mrs S. They didn't ask NewDay to do anything differently.

Mrs S disagreed, she accepted the account opening and first credit limit increase was fair. But said NewDay shouldn't have lent further to her by providing the second credit limit increase. She 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 not upholding this complaint. I appreciate my decision will disappoint Mrs S, so I'll explain why.

Whilst I've read and considered everything, if I don't mention any specific point, it's not because I failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome. This is not meant as a discourtesy but rather reflects my role of resolving disputes with minimum formality.

Firstly, Mrs S isn't disputing that NewDay acted fairly in providing the revolving credit facility and by increasing the credit limit to £1,450. What remains in dispute is NewDay increasing Mrs S' credit limit to £2,200. The lending event I need to consider is whether NewDay sufficiently checked Mrs S could sustain repayments for an additional £750, which is the amount her credit limit was increased by.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website. And I've used this approach to help me decide Mrs S' complaint.

NewDay needed to take reasonable steps to make sure they didn't lend irresponsibly. In practice this means that they should have carried out proportionate checks to make sure Mrs S could afford to repay what she was being lent in a sustainable manner. These checks could consider several things, such as how much was being lent, the repayment amounts, the consumer's income and expenditure. And whether there were certain factors that might show there may have come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

What's important to note is that Mrs S was provided with a revolving credit facility rather than a loan. And this means that NewDay was required to understand whether a credit limit increase of £750 could be repaid within a reasonable period.

The relevant guidance says a lender must undertake a reasonable assessment of the creditworthiness of a consumer before they enter into a regulated credit agreement or significantly increase a credit limit.

NewDay had checked Mrs S' income, credit commitments and likely expenditure around May 2023, a few months prior to the second credit limit increase. NewDay was providing further lending of £750 which would equate to a relatively low additional monthly commitment. So, I wouldn't have expected NewDay to carry out a detailed income and expenditure assessment.

I can see NewDay's checks considered the internal data they had as to how Mrs S was managing her credit card account with them. This showed she was paying more than the minimum payment required, with amounts that would appear to show she should have been able to sustain the new credit limit repayments. There wasn't any evidence of missed or late payments. I can also see their checks showed Mrs S' overall indebtedness hadn't increased other than by the credit provided by NewDay. And that there hadn't been any new adverse information registered on her credit file.

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.

But NewDay's internal data also shows that Mrs S quickly used the available credit she had and was over the limit of this facility for the two months prior to the credit limit increase. So, I would have expected NewDay to carry out further checks to make sure they weren't providing credit to the level where it was becoming unsustainable for Mrs S.

This doesn't automatically mean NewDay shouldn't have lent to Mrs S only that they should have checked further into her financial situation. Generally, I wouldn't expect a lender to obtain bank statements but for our purposes they're a good indicator of Mrs S' income and expenditure at the time of the lending event.

The bank statements provided show that Mrs S was receiving regular funds comprising of benefits as well as a regular monthly payment of around £129. When her regular living costs and monthly expenditure are deducted from what she received, Mrs S does appear to have enough in funds left over to make the increased repayments needed for the limit increase offered.

The relevant guidance also says a lender can consider income received from another person

in so far as it is reasonable to expect such income to be available to the consumer to make repayments under the agreement.

I can see from Mrs S' banks statements that she also received regular payments into her account from her partner. And that these payments were used at times to meet her non-discretionary outgoings. So, I don't think it would be unreasonable of NewDay to consider Mrs S had other sources of income available to sustain her repayments.

I can see Mrs S had a couple of unpaid direct debits across the three months, but there wasn't a pattern of missed payments, and the required payment was made later in the expected month. Mrs S wasn't using any overdraft facility, other than once having exceeded her balance by just over £1 which was rectified shortly after.

Based on what I've seen there isn't sufficient evidence to show Mrs S wouldn't be able to sustain the repayment. I say this as the available information indicates proportionate checks would more likely than not have shown that she could sustain the repayments at the time NewDay made their lending decision. So, I'm satisfied that any further checks NewDay could have done wouldn't have stopped them lending to her. Taking account of Mrs S' income and essential outgoings she should have had sufficient disposable income to be able to sustain her repayments and to cover any discretionary or unexpected costs.

I understand Mrs S' financial circumstances changed around July 2024 as her income reduced. But in reaching my decision I can only consider what her circumstances were at the time of the lending. Overall and having considered everything, while I can understand Mrs S' frustration. I don't think that NewDay treated her unfairly or unreasonably in increasing her credit limit. I appreciate this will be very disappointing for her. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

Although I'm not upholding this complaint, I'd like to remind NewDay of their obligation to continue to exercise forbearance and due consideration should it be the case that Mrs S is struggling to make her credit card payments as she is experiencing financial difficulty.

I've also considered whether NewDay acted unfairly or unreasonably in some other way given what Mrs S 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 Mrs S 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 Mrs S to accept or reject my decision before 31 March 2026.

Anne Scarr  
**Ombudsman**