

complaint

Miss A complains that NewDay Ltd acted irresponsibly in giving her a credit card and then frequently increasing its limit.

background

I issued my provisional decision on this case on 13 May 2019. A copy of it is attached and it forms part of my final decision. The full background to the complaint is set out in my provisional decision and as such I won't repeat it here.

In my provisional decision I explained why I was planning to uphold Miss A's complaint and ask NewDay to refund some interest and charges with the addition of 8% interest. I asked Miss A and NewDay to let me know if there was anything else they wanted me to consider.

Miss A accepted my findings.

NewDay said it received its public information records about customers' credit history from three information bureau. It said that with respect to Miss A these did not include information suggesting that she had received a CCJ. It assumed that there must have been a data error at the county court. And even now NewDay said that two of the information bureau were still not showing any CCJs against Miss A.

NewDay also pointed out that Miss A had incurred a late payment charge some 5 months before it increased her limit to £1,350. And although this would have been reflected in its internal scoring system, this would not of itself have been sufficient not to offer Miss A further increases to her credit limit.

my findings

I've re-considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

NewDay's main point is that it couldn't be expected to take account of CCJs that it didn't know about. And it believes it gets its information from enough sources to minimise error, particularly about something as serious as a CCJ.

But the fact remains that having given Miss A a credit card, two further CCJs and a default had been recorded against her by the time NewDay increased her limit to £1,350. And whilst I have taken account of NewDay's comments that it didn't know about these, Miss A had in reality incurred them.

There is an onus on NewDay as a responsible lender to ensure its systems are sufficiently robust to capture customers' credit information where this might significantly affect its lending decisions. For whatever reason this doesn't appear to have happened here. And so, having taken full account of NewDay's comments, I see no reason to change my provisional findings. I'm therefore upholding Miss A's complaint for the same reasons given in my provisional decision.

my final decision

I uphold Miss A's complaint against NewDay Ltd and require it to:

- refund all interest and charges it applied to Miss A's account on any balance above £600 after it increased her card limit to £1,350;
- pay Miss A simple interest of 8% per year from the date the interest and charges were incurred to the date of settlement.

NewDay should also provide Miss A with a full breakdown of how it calculated the redress.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 12 August 2019.

June Brown
ombudsman

copy of provisional decision

complaint

Miss A complains that NewDay Ltd (trading as Aqua) engaged in irresponsible lending to her.

background

Miss A received her Aqua credit card from NewDay in August 2012 with an initial limit of £250. The limits were then increased as follows:

Jan 2013 - £600
Nov 2013 - £1,350
Jul 2014 - £2,400
Nov 2014 - £3,600
Apr 2015 - £4,700
Sept 2015 - £5,450
Mar 2016 - £6,950

There were two county court judgements against Miss A in this period: October 2012 for around £400, and May 2013 for more than £700. In August 2014 a default of over £1,700 was recorded on Miss A's credit file. None of these involved NewDay.

In 2016 NewDay wrote to Miss A saying that if she wanted to continue to use her card it would charge her a higher interest rate. Miss A declined and closed her account with an outstanding balance of around £6,900. With the help of family she has recently repaid that balance in full.

In August 2018 Miss A complained to NewDay that it should have realised she was in financial difficulty and not continued to increase her borrowing limit. She said she was stuck in a spiral of debt made worse by increases to her credit limit that she hadn't requested. She said she had made frequent cash withdrawals around the repayment dates to afford those repayments and to meet her daily living costs. Miss A asked for a refund of interest she had paid from the date of the credit limit increase after her second CCJ in May 2013. Following Miss A's complaint NewDay reviewed its management of her account and its lending decisions, but concluded that it had acted responsibly throughout.

Miss A brought her complaint to us as she was dissatisfied with that response.

Our investigator didn't recommend that Miss A's complaint be upheld.

He firstly considered if NewDay's original decision to approve Miss A's application with a limit of £250 was reasonable, and concluded that it was. Although Miss A's credit file showed some previous relatively small financial difficulties, our investigator didn't believe these to be sufficiently worrying to refuse her application.

NewDay's records state that Miss A requested the first limit increase to £600, although she can't recall doing so. By then she had had another CCJ for a small amount recorded against her in October 2012. But she had otherwise been managing her NewDay account in line with its terms and conditions. Our investigator's view was NewDay couldn't therefore reasonably be criticised for agreeing to this increase.

All subsequent increases were proposed by NewDay, although Miss A had the option of refusing them. Our investigator noted that Miss A generally managed her account well with few over-limit and late payment fees. He acknowledged that the May 2013 and August 2014 CCJs might have been seen as indicating that Miss A was in financial difficulties, but as she was maintaining repayments on her NewDay account it was not unreasonable that the

business continued to offer her increases. He noted that Miss A didn't contact NewDay to discuss her financial circumstances nor did she refuse the increases.

In summary he considered that as Miss A appeared to be managing her NewDay account in an acceptable way, NewDay couldn't reasonably be expected to know that she was struggling financially more generally. Given this our investigator said he couldn't conclude that NewDay had done anything wrong.

Miss A remained dissatisfied with this view and asked for an ombudsman's decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The *UK cards – best practices for credit limit increases guidance* says that card issuers “*should take an active approach to ensure responsible lending*”. But there isn't a specific list of checks a lender should carry out when deciding whether to give credit. That said, I would expect lenders to carry out checks proportionate to the amount of credit being offered. Typical checks can include (but are not limited to) information from credit reference agencies, establishing customers income and outgoings, their credit history with the lender and the lender's own internal credit scoring.

NewDay provides for customers who often have a less than perfect credit history and who might consequently struggle to secure lending from major banks and other high-street lenders. When Miss A applied to NewDay her credit file showed that she had previously used payday loans and had had a CCJ and two defaults recorded against her. These were for relatively small amounts, and I consider it reasonable that NewDay should have approved her initial application with a modest credit limit. But I would have expected Miss A's credit file to have alerted NewDay to potential future problems with her finances and for it therefore to have been particularly careful in deciding whether to increase her borrowing facility.

Although Miss A cannot recall applying for an increase to £600 in December 2012, NewDay's records suggest that she did. By which point she had incurred a CCJ in October 2012 and had had two cash advances totalling £140 on her card that same month. But that apart, she had managed her account well for the few months it had by then been open. I don't know what checks if any NewDay carried out before agreeing this increase, but I would hesitate to find it to be irresponsible lending at this stage.

But by November 2013, when NewDay increased Miss A's limit to £1,350, she had had another CCJ recorded against her – this time for over £700 – and incurred some missed payment charges and late payment fees on her account. She then quickly spent up to this new limit and then to the next limit of £2,400 offered to her in July 2014. And it was in August 2014 that another default was recorded against her, this time for over £1,700, and she began using her card regularly for cash advances.

It is clear from Miss A's history that she began to experience financial difficulties from a very early stage after receiving her Aqua credit card. And at the point that NewDay offered her an increased limit of £1,350 she had incurred two more CCJs. NewDay has said little about the checks it carried out before deciding to increase Miss A's credit limit at that time, but there were distinct signs that her financial situation had deteriorated. Looking at her statements I note that she had made a late repayment in June 2013 - and was charged late payment and over limit fees - made no repayment in July and made only minimum repayments in September, October and November. If NewDay had carried out proportionate enquiries, I think it likely it would have seen that Miss A was facing challenges repaying other lenders and that she couldn't afford the £1,350 credit limit it intended to offer.

It follows that I think NewDay acted irresponsibly when it increased Miss A's limit to £1,350 and so none of the subsequent increases should have been offered without proper checks. I haven't seen that it did this. So I think it was irresponsible of NewDay to continue to increase Miss A's limit.

my provisional decision

For these reasons, but subject to both parties responses to this provisional decision, I'm currently minded to uphold Miss A's complaint against NewDay. To resolve matters I'm going to ask it to:

- refund all interest and charges it applied to Miss A's account on any balance above £600 after it increased her card limit to £1,350;
- pay Miss A simple interest of 8% per year from the date the interest and charges were incurred to the date of settlement.

June Brown
ombudsman