

complaint

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

background

Miss M says in June 2014 she received her credit card from ND with a credit limit of £250. And she says the credit limit was increased to £550 in November 2014, £1,250 in May 2015, £2,250 in September 2015 and finally to £3,500 in March 2017.

Miss M also says her credit limit was increased several times despite her defaulting and going over her credit limit on numerous occasions. So, Miss M says she believes this was irresponsible lending and some of her debt should be waived as she shouldn't have been given increased credit limits.

ND says as part of its commitment to responsible lending it regularly reviews how its customers are using its credit cards along with how they are managing their other credit commitments. It says it makes risk based assessments to ensure it's lending appropriately. And it says this type of review may result in either an increase or decrease to the credit limit.

ND also says before increasing a credit limit it sends letters requesting customers to ensure they can afford repayments of the new limit. It says it allows 40 days for the customer to select to opt out of the credit limit increase. And it says on the basis of its findings it's unable to uphold Miss M's complaint regarding irresponsible lending.

Our adjudicator thought Miss M's complaint shouldn't be upheld.

She said Miss M exceeded her credit limit on a number of occasions however she didn't go over her credit limit by a large amount at any point and always brought it within the limit once she made the monthly payment.

She said there were a number of late payments, but Miss M always maintained her payments and regularly made more than the minimum payment. And she said Miss M had taken out a number of payday loans prior to her account commencing with ND and in between the credit limit increases. However the payday loans were being repaid and her payment history on these loans was good, as per her credit report.

Miss M disagreed with the adjudicator's conclusions. She said her bank statements show by 2017 she was no longer able to make payments towards her credit card as every penny of her wages was owed to payday lenders and high interest loans. And she said ND should've requested bank statements before making the credit limit increase to £3,500 to confirm how she was managing her other debts.

So, the matter's been referred to me to make a final decision.

I recently issued my provisional findings on this complaint. I said there's no specific list of checks a lender must carry out before deciding to offer a credit card account or to increase a credit limit. But the checks do need to be proportionate to the lending. And I said the information I'd seen indicated the checks ND carried out both when opening the account, and in offering Miss M credit limit increases up to and including the increase in September

2015, were proportionate to the amount involved and that they were appropriate in the circumstances.

In view of the financial information ND obtained about Miss M when she opened her account, and at the time of each of the credit limit increases I'd referred to, together with her successful track record of operating the account, I was minded to conclude none of these decisions involved irresponsible lending by ND.

I noted Miss M only incurred late fees occasionally in the early operation of her account, but I could see she incurred them almost every month in the run up to the increase in her credit limit to £3,500. And I noted the information Miss M's given us about the state of her finances at that time, including bank statements.

Taking everything I'd seen into account, I was minded to conclude it would've been proportionate and reasonable for ND to obtain more information about the state of Miss M's finances at that time, such as recent bank statements, before offering her this increase. I also noted that Miss M ran into serious financial difficulties very quickly after getting this increase. So, I was minded to conclude that ND's decision to increase Miss M's credit limit to £3,500 in March 2017 was irresponsible.

And I was minded to partly uphold her complaint on this basis.

This was different from the adjudicator's opinion. So, I invited both parties to comment and provide any additional information for me to consider.

A copy of my provisional decision is attached and forms part of this final decision.

my findings

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

In response to my provisional decision Miss M said she was of the view that the increase in her credit limit from £2,250 in September 2015 to £3,500 in March 2017 was entirely irresponsible. And she said she hoped I would agree that all interest and charges from September 2015 to the present time should be refunded.

ND didn't respond to my provisional decision.

I've noted Miss M's comments. But as indicated in my provisional decision, I think the checks ND carried out both when opening the account, and in offering Miss M credit limit increases up to and including the increase in September 2015, were proportionate to the amount involved and that they were appropriate in the circumstances.

It's only the increase in Miss M's credit limit to £3,500 in March 2017 in respect of which I think it would've been proportionate and reasonable for ND to obtain more information about the state of Miss M's finances at that time, such as recent bank statements, before offering her this increase.

So, this is the only credit limit increase I consider to have been irresponsible. And this means it's fair for me to require ND to refund all interest and charges it's applied to Miss M's

account since the credit limit increase to £3,500 in March 2017; and remove all adverse information about the account from her credit file since that increase.

But I don't think it would be fair for me to require ND to backdate the same redress to the September 2015 credit limit increase to £2,250 as suggested by Miss M, as I don't think it was irresponsible to give her this increase.

So, I partly uphold Miss M's complaint on this basis.

my final decision

I partly uphold Miss M's complaint against NewDay Limited. It must:

1. refund all interest and charges it's applied to Miss M's account since the credit limit increase to £3,500 in March 2017; and
2. remove all adverse information about the account from her credit file since the March 2017 increase.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 23 August 2019.

Robert Collinson
ombudsman

copy of my provisional decision

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background

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ND says as part of its commitment to responsible lending it regularly reviews how its customers are using its credit cards along with how they are managing their other credit commitments. It says it makes risk based assessments to ensure it's lending appropriately. And it says this type of review may result in either an increase or decrease to the credit limit.

ND also says before increasing a credit limit it sends letters requesting customers to ensure they can afford repayments of the new limit. It says it allows 40 days for the customer to select to opt out of the credit limit increase. And it says on the basis of its findings it's unable to uphold Miss M's complaint regarding irresponsible lending.

Our adjudicator thought Miss M's complaint shouldn't be upheld.

She said Miss M exceeded her credit limit on a number of occasions however she didn't go over her credit limit by a large amount at any point and always brought it within the limit once she made the monthly payment.

She said there were a number of late payments, but Miss M always maintained her payments and regularly made more than the minimum payment. And she said Miss M had taken out a number of payday loans prior to her account commencing with ND and in between the credit limit increases. However the payday loans were being repaid and her payment history on these loans was good, as per her credit report.

Miss M disagreed with the adjudicator's conclusions. She said her bank statements show by 2017 she was no longer able to make payments towards her credit card as every penny of her wages was owed to payday lenders and high interest loans. And she said ND should've requested bank statements before making the credit limit increase to £3,500 to confirm how she was managing her other debts.

So, the matter's been referred to me to make a 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.

I'm currently minded to partly uphold Miss M's complaint, and to require ND to refund all interest and charges it's applied to her account since it gave her a credit limit increase to £3,500 in March 2017. I'll explain why.

There's no specific list of checks a lender must carry out before deciding to offer a credit card account or to increase a credit limit. But the checks do need to be proportionate to the lending. The

information I've seen indicates the checks ND carried out both when opening the account, and in offering Miss M credit limit increases up to and including the increase in September 2015, were proportionate to the amount involved and that they were appropriate in the circumstances.

In view of the financial information ND obtained about Miss M when she opened her account, and at the time of each of the credit limit increases I've referred to, together with her successful track record of operating the account, I'm minded to conclude none of these decisions involved irresponsible lending by ND.

I note Miss M only incurred late fees occasionally in the early operation of her account, but I see she incurred them almost every month in the run up to the increase in her credit limit to £3,500. And I've noted the information Miss M's given us about the state of her finances at that time, including bank statements.

Taking everything I've seen into account, I'm minded to conclude it would've been proportionate and reasonable for ND to obtain more information about the state of Miss M's finances at that time, such as recent bank statements, before offering her this increase. I also note that Miss M ran into serious financial difficulties very quickly after getting this increase. So, I'm minded to conclude that ND's decision to increase Miss M's credit limit to £3,500 in March 2017 was irresponsible.

my provisional decision

For the reasons set out above, but subject to both parties' responses to this provisional decision, I'm currently minded to partly uphold Miss M's complaint against NewDay Ltd. To resolve matters I'm going to ask it to:

1. refund all interest and charges it's applied to Miss M's account since the credit limit increase to £3,500 in March 2017; and
2. remove all adverse information about the account from Miss M's credit file since the March 2017 increase.

Robert Collinson
ombudsman