

## The complaint

Mr A complains that NewDay Ltd (NewDay) lent to him irresponsibly.

## What happened

Mr A had two credit cards from NewDay – a Marbles card (issued in August 2015) and an Aqua card (issued in June 2017). On each card, he was offered credit limit increases as shown:

Credit card	Date	Limit
Marbles	August 2015	£900
Marbles	November 2015	£1,900
Marbles	March 2016	£2,500
Marbles	November 2016	£3,750
Aqua	June 2017	£600
Aqua	April 2018	£1,200
Aqua	September 2018	£1,950

In June 2019, Mr A entered into a debt management plan (DMP) and settled to repay his debts in April 2022. In June 2023, he complained that NewDay lent to him irresponsibly. He says he had many other debts at the time of the increases and was using fully his limits on the NewDay cards. He was 'maxed out' on his other cards. So – he says NewDay should've seen this and not lent to him. He says NewDay should repay to him £3,800 as a settlement – the amount of charges and interest he paid to NewDay over the years.

NewDay didn't issue a final response as the complaint came to us and we asked for their evidence files. NewDay firstly said the complaint about Marbles was out of our jurisdiction – as it was brought more than six years after the issue of the card and the limit increases. But an ombudsman then issued a final decision which said we could look at it– as it was brought within three years of Mr A becoming aware he had reason to complain.

So - NewDay sent to us their evidence files. They made no further arguments about the Marbles card. On the Aqua card, they reviewed what happened and said the increase in September 2018 may not have been suitable. So they offered to refund interest and fees on balances over £1,200 from 3 September 2018 – amounting to £144.75. And – arrange to remove any adverse information reported on his credit file on the Aqua account after 3

September 2018.

Mr A didn't accept this and brought his complaint to us. Our investigator said the offer from NewDay was reasonable. She said NewDay completed reasonable and proportionate checks when opening both the Marbles account and Aqua accounts. And the same went for the limit increases, other than the final increase on the Aqua card in September 2018 (to £1,950). So – she recommended that NewDay should settle Mr A's complaint in line with the offer they'd made.

Mr A didn't agree and asked that an ombudsman look at his complaint, and so it has come to me to make a final decision.

### **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.

All lenders have an obligation to lend money responsibly. We have to check whether NewDay acted in line within the Financial Conduct Authority (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments, as well as the risk to the customer of not being able to make repayments. We look at:

- Whether the lender completed reasonable and proportionate checks to satisfy itself that the borrower would be able to repay any credit in a sustainable way?
- If reasonable and proportionate checks were completed, did the lender make a fair lending decision bearing in mind the information gathered and what the lender knew about the borrower's circumstances?
- And a reasonable and proportionate check would usually need to be *more* thorough:
  - the lower a customer's income, and the higher amount to be repaid.
  - the greater the number of loans and frequency of loans.
  - the longer the term of the loans.

It's important to note that the checks must be proportionate to the amount being lent – so the higher the amount, the greater the checks must be, and the lower the amount, then fewer checks can be made.

I looked at Mr A's complaint with this guidance in mind.

#### *Marbles – account opening:*

I looked at Mr A's account application. He declared he had an annual income of £25,000 and was a tenant paying rent. NewDay could see from their checks that he then had other debts of only £870. Although he had a default on his record, it was a long time before - 43 months ago. He had no arrears or overdue accounts, so they issued the card - and I agree this was a proportionate and reasonable decision.

#### *Marbles – limit increases:*

After the issue of the card, Mr A appeared to manage his Marbles account well. All payments were made on time (often for more than the minimum). I can see his total debts increased to

£6,700 – but as against his salary, I don't think that was an unreasonable amount. I accept that Mr A's utilisation was fairly high at around 80-90%. But on balance, I consider NewDay made a reasonable decision to offer to increase Mr A's limits.

#### *Aqua – account opening:*

I can see Mr A's salary had increased to £27,000, and he was still renting a property. The default was still showing on his credit file – but that was by then 66 months ago. But I can also see he had total debts of about £18,500, with 15 other lenders involved. And there had been nine recent credit searches – indicating he was looking for more credit.

But on the other hand, the limit of £600 was of a modest, low value – and so I consider it was reasonable for NewDay to decide to issue the card.

#### *Aqua – limit increases:*

*Increase to £1,200 – April 2018:* It appears that Mr A first used the Aqua card for a balance transfer of £500 (in July 2018). And made the small payments needed (on time) of around £10 to £20 per month from then to when the first limit increase was offered. He didn't use the card for any retail purchases. So, it was essentially a low balance card with little or no use.

Mr A was still making all the necessary payments to the Aqua card and to his other debts. But – by that time, Aqua could also see his debts had increased to £20,000. This was fairly significant by comparison with a salary of £27,000.

But on the other hand, there hadn't been any new credit applications with other lenders, and all those payments were up to date. So – he was managing his credit properly. And - I can see the Aqua card wasn't being used very much, and the balance remained low at around £400; and payments were up to date. Also, I'm mindful that Mr A could've opted out of the offered increase but didn't – so he must bear some responsibility for taking the increase offered.

So on balance, I consider the increase in limit to £1,200 was reasonable, and NewDay completed the proportionate checks they needed to.

*Increase to £1,950 – September 2018:* Aqua could by then have seen that Mr A drew his card balance to £1,190 (against the new limit of £1,200). And although he was making payments on time, his total debts had increased to over £22,000. And so, by then, and given this was the second increase in six months, I agree it would then have been reasonable for NewDay to make some further inquiries, including looking at Mr A's overall financial situation (i.e. his other debts and his bank accounts). But they didn't. So here, NewDay should've done more.

### **Putting things right**

To be fair to NewDay, they've offered to refund all interest and fees on borrowing over £1,200 from the date of the last increase on 3 September 2018, and remove any adverse information reported to Mr A's credit file regarding the Aqua account after that date - and this decision confirms that. I know Mr A will be disappointed with this – as he wanted more – but I'm satisfied that in the circumstances of his complaint, that's a reasonable way to settle it.

### **My final decision**

I uphold this complaint. NewDay Ltd must:

- Refund interest and fees on borrowing over £1,200 since 3 September 2018 and remove any adverse information from Mr A's credit file for the Aqua account since that date..

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 26 February 2024.

Martin Lord  
**Ombudsman**