

The complaint

Mr A, who is represented by a third party, complains that NewDay Ltd (“NewDay”), trading as Aqua, irresponsibly granted him a credit card account he couldn’t afford to repay.

What happened

Mr A entered into an agreement with NewDay to have access to credit by way of an Aqua credit card account. The account was opened in April 2015 with a credit limit of £250. This was increased to £900 in July 2015, to £1,950 in November 2015 and finally to £2,950 in March 2016.

Mr A got into difficulties with repaying the card. The outstanding sum was sold on to a third party in August 2018.

Mr A says that NewDay didn’t complete adequate affordability checks when it opened his account. He says if it had, it would have seen that the card wasn’t affordable for him. He also says having the card has left him financially disadvantaged.

NewDay said that it carried out a reasonable and proportionate assessment to check Mr A’s financial circumstances before granting him the card account and each of the credit limit increases.

Our investigator didn’t recommend the complaint be upheld. He thought NewDay didn’t act unfairly or unreasonably by approving the opening of the account with its initial credit limit followed by each of the credit limit increases.

Mr A didn’t agree and so his complaint has been passed to me for 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.

NewDay will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don’t consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

Before opening the account I think NewDay gathered a reasonable amount of evidence and information from Mr A about his ability to repay. I say this because it asked for details about his income and credit he owed elsewhere. NewDay also completed a credit check which showed no adverse information, such as defaulting on credit or having a county court judgment against him. However, just because I think it carried out proportionate checks at

this stage, it doesn't automatically mean it made a fair lending decision. So, I've thought about what the evidence and information showed.

I've reviewed the information and evidence NewDay gathered. Having done so I'm satisfied that the checks that were completed showed that the agreement was likely to be affordable to Mr A. I say this because Mr A told NewDay his annual income was £9,000. We now know the bulk of this was represented by his student loan which was intended to help him to support himself whilst studying. He also had total outstanding credit of £100. From what I've seen, I think it's likely that Mr A was in a reasonably stable position financially at the time. And I've kept in mind that NewDay was granting him a relatively modest opening credit limit of £250. So I don't think NewDay acted unfairly when approving the finance application.

Turning to the credit limit increases, I think NewDay gathered a reasonable amount of evidence and information from Mr A about his ability to repay for the first increase from £250 to £900. Given that Mr A's circumstances do not appear to have changed substantially by the time he was granted his first credit limit increase three months later, I don't think NewDay acted unfairly in approving this either. At this point he owed £50 on his account and owed the same amount by way of other credit.

Looking at the second increase, from £900 to £1,950, I think on balance NewDay ought to have considered checking Mr A's income at this point, but I can't see that it did. I say this given that his credit limit had increased by almost eight times since opening. I realise that his NewDay account balance was still relatively low at around £115 and his credit card debt was just under £200. But given Mr A's level of income, repaying this amount of new credit would have represented a significant financial commitment. So I broadly agree with our investigator it would have been proportionate for NewDay to have found out more about Mr A's financial circumstances, but I can't see that happened. And I think this ought to have happened from the point of the second increase, rather than the third.

I've therefore taken a look at what NewDay would likely have found if it had carried out better checks. Having done so, whilst I can see his main income source was from his student finance, I can't see enough evidence to show or suggest that he wasn't able to fund his credit repayments without being likely to worsen his financial situation.

To summarise I think the evidence and information I've seen overall demonstrates that Mr A had enough disposable income each month – although limited - to make regular, sustainable repayments towards his NewDay credit card. Had it completed proportionate checks at every stage, I therefore think it's likely NewDay would have discovered this too. So I can't say it acted unfairly.

Finally, I've seen that Mr A is seeking compensation for distress and inconvenience for the way NewDay has handled his complaint. Generally speaking, this service doesn't compensate consumers for the way their complaints are handled and I think that applies in Mr A's case as well. I would add though that Mr A has benefitted from being represented by his third party, much of the time and work required to make his complaint has been carried out on his behalf.

It follows that, whilst I can't say that everything NewDay did was necessarily appropriate at all times, I don't think NewDay's actions in opening the account and for each of the three credit limit increases was enough to cause Mr A to lose out.

I've considered whether the relationship between Mr A and NewDay might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think NewDay lent irresponsibly to Mr A or otherwise treated him unfairly. I

haven't seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 2 August 2024.

Michael Goldberg

Ombudsman