

The complaint

Mr M complains that NewDay Ltd trading as Aqua (NewDay) didn't sufficiently check whether he could sustain the repayments when opening his credit card account. And providing him with subsequent credit limit increases.

In bringing his complaint Mr M is represented by a third party. For ease of reading I will only refer to Mr M in my decision.

What happened

In November 2021 Mr M applied for a credit card with NewDay. His application was approved with a credit limit of £450. After which NewDay increased his credit limit. In April 2022 to £1,200, August 2022 to £2,200, November 2022 to £3,200, April 2023 to £3,800 and August 2023 to £5,300. Mr M said he struggled to make the repayments. And if NewDay had properly checked they would have found the lending was unaffordable for him. He complained to NewDay.

NewDay didn't respond within the eight-week timeframe so Mr M referred his complaint to us.

NewDay said after reviewing Mr M's complaint they agreed they shouldn't have applied the increases to his credit limit of £3,800 and subsequently £5,800 as prior to these Mr M had requested a payment holiday as he was struggling to meet his credit commitments. They said they would refund all charges and interest that had been applied above the credit limit increase of £3,200, thereby reducing Mr M's outstanding balance.

Our investigator considered the account opening and other credit limit increases. She didn't think NewDay had acted unfairly or unreasonably in opening the account or by increasing the credit limits up to £3,200.

Mr M didn't agree and 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 Mr M's complaint. I'll explain why.

In reaching my decision I'm only considering the opening of the account and the subsequent credit limit increases to £3,200. NewDay has already accepted they shouldn't have increased Mr M's credit limit in April and August 2023. So, I won't comment further on these credit limit increases.

I've considered the relevant rules, guidance and good industry practice when someone complains about irresponsible and/or unaffordable lending. There are two overarching questions I need to consider to decide what's fair and reasonable in all of the circumstances

of the complaint. These are:

1. Did NewDay complete reasonable and proportionate checks to satisfy themselves that Mr M would be able to repay the credit in a sustainable way?

a. if so, did NewDay make a fair lending decision?

b. if not, would reasonable and proportionate checks have shown that Mr M could sustainably repay the borrowing?

2. Did NewDay act unfairly or unreasonably in some other way?

So, before agreeing to approve or increase the credit available to Mr M NewDay needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances.

I've looked at what checks NewDay said they did when initially approving Mr M's application. NewDay said they looked at information provided by Credit Reference Agencies (CRA's) and information that Mr B had provided before approving his application.

The information showed that Mr M had declared a gross annual salary of £28,000 and was in full time employment. Mr M had four active accounts with an overall balance of £9,500. Mr M didn't have any arrears on his active accounts. I can see NewDay also found that Mr M had two defaulted accounts with an outstanding balance of £12,000. But also, that these were historic having happened around 43 months prior to this lending application.

So, I'm satisfied that the checks NewDay carried out here, prior to approving the initial £450 credit limit were proportionate. When entering into a regulated credit agreement for running-account credit, NewDay should assume that Mr M would draw down the entire credit limit at the earliest opportunity and would be able to repay by equal instalments over a reasonable period. I'd expect that this would have seen Mr M have to pay around £22 a month. Given his income and credit history I think this would have been sustainable for him. So, I think NewDay made a fair lending decision to approve Mr M's application.

I've looked at the information available to NewDay when they increased Mr M's credit limit to £1,200. Added to the information that NewDay had available to them from the CRA including an income check through a current account turnover check, they also could see how Mr M managed his credit card account. And this showed that Mr M had five active accounts all of which were being managed well. Mr M also settled the balance of his credit card in full each month.

So, I'm satisfied that the checks NewDay carried out here, prior to approving the credit limit increase of £1,200 credit limit were proportionate. The increased limit would have meant Mr M would be indebted by around £37 more each month if he again drew down the full amount so a monthly repayment of around £60. As Mr M regularly paid in excess of this amount each month I think NewDay made a fair lending decision to approve Mr M's credit limit increase to £1,200.

The next credit limit increase was in August 2022 from £1,200 to £2,200. Again, NewDay checked Mr M's income, credit history and how he managed his credit card account. Although Mr M wasn't clearing his statement balance each month he was making more than the minimum payment required. His retail spending was low, and he'd had one cash

advance. His overall indebtedness had increased but he still had five active accounts which were still up to date. The increased credit limit if drawn down in its entirety would have increased Mr M's monthly outgoings by £50, to £110 a month. Across the preceding four months from Mr M's previous increase, he'd paid on average £138 per month. So again, I think the checks done by NewDay were proportionate and I haven't seen any evidence of financial vulnerability, so I think NewDay made a fair lending decision.

The last credit limit increase I'm considering was for £3,200 in November 2022. A further increase of £1,000. Again, NewDay checked Mr M's income, credit history and how he managed his credit card account. Mr M still had five active accounts none of which showed any arrears or missed payments. And his overall indebtedness had gone down. While it had only been three months since the previous increase, and I can see that Mr M had made a money transfer as well as some cash advances. His outstanding balance showed he hadn't utilised the preceding credit limit of £2,200. And he was paying more than the minimum repayment required. So again, I think the checks done by NewDay were proportionate and I haven't seen any evidence of financial vulnerability, or that the repayments weren't sustainable. So, I think NewDay made a fair lending decision.

As mentioned above NewDay has accepted that the further credit limit increases they'd applied to Mr M's account for £3,800 and £5,300 shouldn't have been made. And they have put this right.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. But for the reasons I've already given, I don't think NewDay lent irresponsibly to Mr M 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

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 24 October 2024.

Anne Scarr
Ombudsman