

## **The complaint**

Mr G complains that Aqua proactively increased his credit limit on his credit card, without carrying out checks to make sure he could afford the repayments. He feels that Aqua was irresponsible in increasing his lending, and that this contributed to him falling into financial difficulties later.

## **What happened**

Mr G applied for a credit card with Aqua. At that time, he was a student who worked part time in addition to his studies. He earned around £11,000 per year and had no guaranteed hours of work.

In May 2014, Aqua wrote to Mr G advising that it was unable to offer him the APR rate that he had applied for, but that it would offer him a card with a rate of 49.9% APR. This card had a credit limit of £300.

Mr G accepted the card and began to use it.

Initially he used it very sparingly, and in the first two months of having the card he paid the balance off in full. From July 2014 onwards, however, Mr G consistently had a debt balance on his card.

In July and August 2014, Mr G's statement balance was around £120, and he was making payments above the minimum required.

In August 2014, Aqua contacted Mr G and offered to increase his credit limit to £950. It gave him the option of rejecting the limit increase.

Mr G did not object, so his credit limit was increased to £950 in September 2014.

Mr G's use of the card remained stable, and he maintained a balance of around £150 for several months and in some months did not use the card at all.

In December 2014, Aqua wrote to Mr G again, offering to increase his credit limit to £2000. Mr G did not respond, and his credit limit was increased.

Mr G continued to use his card at broadly the same level, and in May 2015, Aqua again offered to increase his credit limit. Mr G did not reject the increase so in May 2015 his limit was increased to £3450.

Mr G's use of the card increased after this, with his balance jumping to around £1200 immediately after this credit limit increase.

Mr G's balance then gradually increased. He made increasing payments towards his card, including a sizeable payment in March 2016, which appears to have been made using other credit, but Mr G's balance continued to rise. In mid-2016 it stood at around £2000 (of a £3450 limit).

Aqua wrote to him again in June 2016 and offered to increase his limit to £4950. Mr G didn't reject this, so his limit was increased.

Hereafter, Mr G's balance increased to near to his limit almost immediately, and soon afterwards he exceeded his limit.

Substantial fees for exceeding his limit and making late payments were added to Mr G's account and he fell into financial difficulties.

Aqua and Mr G established a repayment plan, but this failed. Aqua sold Mr G's debt to a third party in July 2017 and a county court judgment was obtained against Mr G, adding additional legal fees onto Mr G's debt.

Mr G complained to Aqua and asked that he be compensated, and that late payment and default markers be removed from his credit file. Aqua responded in August 2020. It said that it did not uphold Mr G's complaint as it considered that the increases were affordable.

Mr G was not happy with this response and contacted us.

One of our investigators looked into this matter and set out her view to the parties. This was that the initial two decisions to increase Mr G's credit limit were reasonable as it appeared that Mr G was able to make his repayments. She considered, however that the subsequent increases were unreasonable, given that Mr G was in full time education and his balance was increasing. She thought that Aqua should rework the account, removing all interest and fee charges incurred since 26 June. She also thought that Aqua ought to pay to Mr G £250 compensation for his distress and inconvenience.

Aqua did not accept that view and asked for an ombudsman decision.

I issued a provisional decision in relation to this matter in April 2021. In that decision I set out that I agreed with my colleague's conclusions in relation to the later credit limit increases, but that I also considered that the initial increases were inappropriate.

I explained that an assessment of whether lending is responsible or irresponsible included not just whether the consumer could meet their minimum repayments, but whether they could afford the burden of the debt and interest rate offered, and whether this could be substantially repaid.

In my provisional decision I set out that I had not seen evidence to demonstrate that the limits of £950 or £2000 were affordable for Mr G, based on the information available to Aqua, and so I considered that all the increases to Mr G's credit limit were irresponsible.

Both parties have been given the opportunity to comment on that provisional decision.

Mr G has indicated that he accepts the provisional decision and has nothing further to add.

Aqua has made a number of submissions, broadly as follows:

- Aqua states that it did not obtain Mr G's income and expenditure information as it was not required to do so, and this was not the industry standard at the time.
- Aqua stated that it had no way of knowing how Mr G was funding his repayments, and whether this was by other borrowing;

- Aqua repeated the assessments it undertook to satisfy itself of Mr G's ability to make repayments;
- Aqua stated that it can only make lending decisions on the information available to it at the time and could not have known that Mr G would fall into financial difficulties;
- Aqua considers that the application of 8% interest is unreasonable; and
- Aqua thinks that the provisional award of £250 compensation for distress and inconvenience is disproportionate as Mr G has benefitted from the funds borrowed.

### **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.

I have considered Aqua's additional submissions and these do not affect my provisional view.

I accept that Aqua did not have to undertake specific assessments, before increasing lending, such as reviewing Mr G's income and expenditure, but Aqua was obliged to undertake proportionate checks. The checks which Aqua has listed are checks aimed at assessing the risk of Mr G making his repayments to Aqua.

I have not seen evidence that consideration was given, or given fully, to whether the debt offered, at the rate at which it was offered, was affordable for Mr G to repay, and whether it was in line with Aqua's stated aims of helping consumers to build or rebuild their credit score.

In my view, a reasonable assessment would include consideration of Mr G's income, which was low at the time, and was not guaranteed. I cannot see that the levels of debt offered to Mr G were responsible based on that information, and I think Aqua was wrong to proactively increase Mr G's credit limit as it did.

In respect of Aqua's view that the addition of interest to my provisional award was not reasonable, this would only be added to any credit balance owed to Mr G, after his account has been reworked to remove the interest (including compound interest) and charges that were applied to his account. If there is any balance owed to Mr G then this is money which he has been deprived use of since payment, so adding interest is appropriate.

Finally, Aqua does not consider that the compensation assessment for Mr G's distress and inconvenience is proportionate as he had the benefit of the borrowed funds. I accept that Mr G had the benefit of the borrowed funds, and so I have not written off any part of the capital balance, but I do not agree that the sum is disproportionate. Mr G has described the severe stress that his financial situation placed on him and the toll this took on him, I am satisfied that he has experienced substantial distress and inconvenience and that this award is in line with other awards we would make in similar circumstances.

I therefore adopt my provisional decision, as supplemented by the above, as my final decision and I uphold Mr G's complaint.

### **Putting things right**

In order to put things right I think NewDay Ltd should:

- Re-work Mr G's account, removing and refunding all interest and charges incurred on balances above his initial limit of £300.
- If this results in a balance owed to Mr G, interest should be added to that sum at a rate of 8% per annum, and this should be refunded to Mr G.
- To update all credit information reported in relation to Mr G so that it reports the reworked balances; and
- to pay £250 to Mr G for his distress and inconvenience.

### **My final decision**

For the reasons given above, and in my provisional decision, I uphold Mr G's complaint and direct NewDay Ltd to:

- Re-work Mr G's account, removing and refunding all interest and charges incurred on balances above his initial limit of £300.
- If this results in a balance owed to Mr G, interest should be added to that sum at a rate of 8% per annum (from the date of payment up until the date of settlement), and this should be refunded to Mr G.
- To update all credit information reported in relation to Mr G so that it reports the reworked balances; and
- to pay £250 to Mr G for his distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 9 June 2021.

Laura Garvin-Smith  
**Ombudsman**