

The complaint

Mrs K complains that NewDay Ltd trading as Aqua irresponsibly allowed her to open a credit card account and later increased her credit limit which were both unaffordable.

What happened

Mrs K says she was in financial difficulties when the credit card account was opened. She says she had a gambling problem that Aqua ought to have noticed if it looked at her bank statements. Mrs K says the lending was irresponsible and unaffordable and would like all charges and interest refunded as well as adverse information removed from her credit file. She also says Aqua didn't ask her for evidence of her income or expenditure and shouldn't have increased the credit limit. Mrs K says the unfair lending has caused distress.

Aqua says the account was opened in 2014 with a credit limit of £500. It says Mrs K declared an income of £25,000 a year and lived with her parents with limited outgoings. Aqua says it carried out appropriate credit checks and couldn't have known about the gambling problem. It says it increased the credit limit in August 2014 to £1,400 but accepts after that point Mrs K started making cash withdrawals. Aqua accepts it shouldn't have increased the credit limit in December 2014 and has refunded interest and charges over and above the previous limit.

Mrs K brought her complaint to us and our investigator partially upheld it. The investigator thought Aqua had carried out appropriate checks on the application and the first credit limit increase. And considered Mrs K's credit file, the lack of adverse information such as defaults and her limited debts. The investigator accepted, as Aqua does, that the December 2014 credit limit shouldn't have been approved and recommended any adverse data be removed from Mrs K's credit file in respect of it.

Aqua accepts the investigator's view.

Mrs K doesn't accept that view and maintains the lending was unaffordable.

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 have come to the same overall view as the investigator and for the same reasons. I appreciate Mrs K will be disappointed by my decision.

Lenders and credit providers should carry out reasonable and proportionate checks on any borrowing or credit application. Those checks will of course vary depending on the type and amount of lending. This was an application for a credit facility and so I wouldn't have expected Aqua's checks to have been as detailed as for example for a mortgage or loan application.

I have looked carefully at Aqua's records and can see Mrs K applied for the credit card account in 2014 declaring an income of £25,000 with limited outgoings. I'm satisfied Mrs K's

bank account statements provide further evidence of that income. I'm also satisfied Aqua correctly carried out credit checks on the application and concluded Mrs K had limited debts and no adverse data recorded against her such as defaults or payment arrangements. Aqua approved what I think is a relatively modest credit limit of £500.

I'm satisfied that reasonable and proportionate checks were carried out by Aqua on Mrs K's credit card account application and that on the face of it the account was affordable. I don't think the lending decision was irresponsible and can see that Mrs K managed her account appropriately for some months after it was opened which I think provides additional evidence the lending was affordable at the time of the account opening.

I appreciate Mrs K says Aqua didn't ask to see her bank account statements or details of her expenditure. But I don't think Aqua was required to do so and that it did carry out appropriate checks.

I'm also satisfied that Aqua carried out reasonable and proportionate checks on the credit limit increase in August 2014 and was entitled to consider Mrs K's appropriate account management. I don't think the increase was unaffordable or irresponsible.

There is no issue here that Aqua shouldn't have applied a further credit limit increase in December 2014 as by that stage there was evidence of Mrs K making cash withdrawals and using the account for gambling. I think Aqua has acted fairly by refunding interest and by agreeing to remove any adverse information caused by that increase from Mrs K's credit file.

I appreciate Mrs K had a significant gambling problem and I have seen her bank account statements, But I don't think Aqua could have known about that problem at the time of the account opening or at the time of the first credit limit increase. I also think that it was the gambling that caused the financial problems and that on the face of it the lending would have been affordable.

Overall, I'm satisfied Aqua didn't make a mistake or act unfairly by opening the account or by making the first credit limit increase. I'm satisfied that the lending was affordable and so it would be unfair to order Aqua to refund any interest or charges properly incurred.

Putting things right

Aqua should remove any adverse information from Mrs K's credit file as agreed but I accept it may have fallen off her credit file in any event.

My final decision

My final decision is that I don't uphold the main part of this complaint but uphold the complaint about the credit file. I order NewDay Ltd trading as Aqua to remove any adverse information from Mrs K's credit file related to the credit limit increase in December 2014.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 21 July 2021.

David Singh
Ombudsman