

The complaint

Mr M complains that NewDay Ltd trading as Aqua (Aqua) lent to him irresponsibly.

What happened

In August 2019, Mr M applied for an Aqua credit card. It was approved with a limit of £1200.

Mr M complains that Aqua couldn't have done enough checks – he couldn't afford the card. He had a lot of other debt with payday lenders. He earned only £1800 per month, essential bills were £800 a month and payments to lenders were £600 per month. He asked that all interest and charges be refunded to him.

Aqua said that Mr M passed their credit checks. His application showed he earned £28000 a year and had debts of £11700. He lived with his parents. Their research showed he had two previous defaults worth £3100, but these were 68 months before. There were no payday loans showing, but there were seven active accounts with lenders. They said they'd lent responsibly.

Mr M brought his account to us. Our investigator said Aqua had done enough checks for a modest limit of £1200 and based on the application information – the guidance says that the extent of checks can be proportionate to the limit asked for. She considered Mr M's credit file and could see that high cost lenders had been used in the past, but most weren't showing at the time of Mr M's credit card application. And – there weren't any missed payments showing.

Mr M asked that his complaint be reviewed by an ombudsman.

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 must check whether Aqua acted in line within the Financial Conduct's (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 made 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

In other words, the higher the credit limit, the more checks that need to be done. But where the limit is a modest one, then the checks can be less – and I think that's the case here, as the limit was only £1200.

I can see that when he applied for the card, Mr M told Aqua that he earned £28000 a year. He lived with his parents. Aqua's research showed he had debts of £11700. But there weren't any recent defaults – there were two for £3100 more than five years before. Otherwise, all payments were being made. So that looked OK. There were seven active accounts showing – but no borrowing. Mr M's credit file also shows no missed payments up to the end of 2019 – so it looked as though Mr M was meeting his commitments – so that was OK.

But – on the other hand, I can also see from Mr M's bank statements that he was making payments to payday lenders during 2019 – so the information here is conflicting. I've thought about this. Aqua could only make a lending decision based on the information they had before then (especially for a modest limit of £1200) – and their information was that there wasn't any payday debt when Mr M applied for the card. So – that's all this service can expect of Aqua. If there were signs or information that Mr M was in financial difficulty, then they might well have asked more questions, and asked to see bank statements or evidence of income and expenditure, for example – but this wasn't the case, and so I don't think we can expect Aqua to have looked any further in this case.

I can see that after Mr M got the card, problems arose. He missed payments and went over the limit. The card was suspended in September 2019. But – what I'm looking at here – is should Aqua have given Mr M the card in the first place? And based on what I've seen, I don't think that Aqua acted irresponsibly. And therefore, I won't be asking them to do anymore here.

My final decision

I do not 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 28 September 2021.

Martin Lord
Ombudsman