

## **The complaint**

Mr S complains that NewDay Ltd trading as Aqua lent irresponsibly when it increased the credit limit on his credit card and approved a loan.

## **What happened**

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

*Mr S applied for a credit card with Aqua in November 2017 and told it he was single, employed earning around £32,000 a year and a private tenant. Aqua completed a credit search and found no recent adverse information. Aqua also found Mr S owed around £3,000 to other unsecured creditors. A credit card with a £300 limit was approved by Aqua.*

*In May 2018 Aqua increased Mr S' credit limit to £1,200, in September 2018 it was increased to £1,950, in February 2019 it went up to £3,450 and a final credit limit increase to £4,000 was approved in June 2019. Each time, Aqua says it looked at Mr S' credit file and applied its lending criteria before deciding to proceed.*

*In November 2018 Mr S applied for a loan with Aqua and reconfirmed his income. Aqua lent Mr S £1,500 over two years. Mr S repaid the loan in July 2019.*

*Earlier this year, Mr S complained that Aqua had lent irresponsibly when it increased the credit limit on his credit card and approved a personal loan. Mr S explained he was suffering with financial difficulties and had become reliant on credit to make ends meet.*

*Aqua didn't uphold Mr S' complaint so he referred it to this service. An investigator considered Mr S' case but didn't agree Aqua had lent irresponsibly. Mr S asked to appeal, so his complaint has been passed to me to make a decision.*

## **What I've provisionally 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.*

*Before a business agrees to lend, it should take reasonable steps to ensure it does so in a responsible way. There's no set list of checks a lender has to complete. In practice, this means businesses should ensure proportionate checks are carried out to make sure the customer can afford to repay the borrowing in a sustainable way. These checks should take into account various factors, like the amount being lent, the costs to the borrower each month, credit history and the consumer's income and outgoings. As the relationship between lender and borrower progresses, the business may need to consider carrying out more comprehensive checks to ensure the borrower can afford repayments in a sustainable way.*

*In this case, I've looked at each of the lending decisions Aqua made. Having considered the available information, I've reached a different view to the investigator. I think Aqua lent irresponsibly when it increased Mr S' credit limit and later approved a loan. I'll explain why.*

*Aqua initially approved a modest credit limit of £300 and I agree that was reasonable. Aqua found Mr S owed around £3,000 to other lenders and says his income was sufficient to support further borrowing of £300.*

*I think there were clear signs at an early stage that Mr S' use of credit was becoming unsustainable. I note Aqua's affordability data picked up Mr S' other unsecured borrowing increased from £3,000 in November 2018 to around £11,000 in April 2018, the month before the credit limit increase to £1,200. That's a substantial increase in unsecured borrowing in a short period.*

*I also think it's reasonable to note that Aqua increased the existing credit limit by four times to £1,200. I can see Mr S had only made three payments to Aqua prior to its decision to increase his credit limit so only a short track record had built up. Taking these factors into account, I'm satisfied there were signs Aqua should've picked up on that indicated further borrowing may not have been sustainable for Mr S. I think that should've caused Aqua to carry out more comprehensive checks before deciding whether to proceed.*

*As I've said above, there's no set list of checks a lender has to complete. Options like reviewing bank statements or obtaining evidence of a borrower's income are available to lenders. There are other checks businesses may choose to complete as well. Mr S has sent us copies of his full credit report along with bank statements for the period in question.*

*Looking at Mr S' bank statements, I note a large proportion of his monthly income was used to service unsecured debt. I can also see borrowing with payday lenders that further shows Mr S was relying on credit each month to make ends meet. Had Aqua carried out proportionate checks I'm satisfied it would've found evidence of Mr S' increasing dependence on credit and I don't think it would've approved the credit limit increase to £1,200 in April 2018.*

*It follows that if I think the first credit limit increase was approved irresponsibly, I think the same of the following increases. I've looked at whether there should've been any other signs Aqua could've picked up on to show Mr S was struggling.*

*I note the next credit limit increase to £1,950 took place four months after the first. So, again, there was a reasonably short period of Mr S maintaining his account on the existing credit limit. By this time, Mr S' balance with Aqua was at the limit and his other unsecured borrowing had gone up to around £14,000. That's a total increase in unsecured borrowing of around £4,000 in four months. Again, I think that in itself should've been sufficient to show Aqua Mr S' borrowing was unsustainable and caused it to complete better checks before increasing his credit limit further.*

*I've looked at Mr S' bank statements from the months preceding the credit limit increase and again found evidence of pay day loans. It's clear Mr S was using credit to pay other debts which isn't a sustainable situation. Had Aqua completed better checks I don't think it would've increased Mr S' credit limit to £1,950.*

*Aqua approved a new loan for Mr S in November 2018 and says it reconfirmed Mr S' income with him. Given Mr S' history with Aqua and its decision to substantially increase*

*his existing borrowing in a reasonably short period, I think Aqua should've looked more closely at whether Mr S was able to support a loan as well. Mr S' bank statements show that in the months before Aqua approved the loan Mr S had further borrowing with payday lenders and that his outgoings were supported by the use of credit. Had Aqua carried out better checks during Mr S' loan application, I don't think it would've proceeded.*

*I note Mr S' loan was repaid early and that he cleared the full balance of his Aqua credit card in January 2019. But Mr S' bank statements show he was only able to do that because a friend had lent him the funds required. Again, Mr S was borrowing to repay credit which shows his situation wasn't sustainable in the long term.*

*Aqua increased the credit limit by £1,500 to £3,450 in February 2019. Given the size of the increase and the fact it had recently approved a new loan for Mr S, for a further £1,500, I think Aqua should've looked more closely at his situation. As I've previously noted, Mr S' bank statements show an increasing reliance on credit to support other borrowing as well as payday loans. Had Aqua carried out better checks, I don't think it would've approved Mr S' credit limit increase to £3,450.*

*The final credit limit increase to £4,000 took place in June 2019 and by this point I'm satisfied information available to Aqua should've caused it to carefully consider whether to proceed. I can see Mr S repaid his credit card balance in full in February 2019 and also cleared his loan balance. But, as I've said above, Mr S' bank statements show he was only able to do that by borrowing money from a friend. And, between February 2019 and June 2019 Mr S' Aqua balance crept back up to around £2,000 and other unsecured borrowing increased from £6,300 to around £12,000. I think it was clear Mr S' use of credit was unsustainable and Aqua would've found that if it had carried out more comprehensive checks. In line with previous increases, I'm satisfied that if Aqua had carried out better checks it wouldn't have increased Mr S' credit limit to £4,000 in June 2019.*

*As I think Aqua lent irresponsibly, I intend to tell it to refund all interest, fees and charges applied to Mr S' credit card debt for balances over £300. I also intend to tell Aqua to refund all interest, fees and charges applied to Mr S' loan.*

*I don't think it's fair for Aqua to record adverse information in relation to debts that were lent irresponsibly. As a result, I intend to tell Aqua to amend Mr S' credit file to remove all adverse information reported from May 2018 onwards in relation to credit card balances over £300.*

I invited both parties to respond with any additional comments or information they wanted me to consider before I made my final decision. Mr S responded to confirm he accepted the provisional decision. We didn't hear back from NewDay.

### **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.

As neither party has provided new information for me to consider I see no reason to change the conclusions I reached in my provisional decision. I still think Mr S' complaint should be upheld for the same reasons. As a result, I'm going to proceed and uphold Mr S' complaint.

### **My final decision**

My decision is that I uphold this complaint and direct NewDay Ltd trading as Aqua to settle as follows:

- Rework Mr S' credit card balance so all interest, fees and charges applied from May 2018 onwards on balances over £300 are refunded
- If an outstanding balance remains, Aqua should contact Mr S to arrange a suitable repayment plan. No adverse information about the plan should be recorded on Mr S' credit file
- If the effect of refunding interest, fees and charges results in a credit balance, the extra should be treated as an overpayment and refunded to Mr S along with 8% interest until the date of settlement
- Refund all interest, fees and charges applied to Mr S' loan directly to him
- Amend Mr S' credit file to remove adverse information reported in relation to his credit card on balances over £300 from May 2018 onwards
- Amend Mr S' credit file to remove all reference to the loan account

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 December 2021.

Marco Manente  
**Ombudsman**