

## **The complaint**

Ms H complains that NewDay Ltd (trading as Aqua) lent irresponsibly when it increased her credit card limit.

## **What happened**

Ms H opened a credit card account with Aqua in early 2018. But within a few months the credit limit had more than doubled. And by the end of the first year her credit limit was over four times the original amount.

Ms H says she accepted the credit increases but is unhappy they were applied automatically. She began to find it difficult to repay her debt as the year progressed. And she didn't think Aqua had lent fairly to her. The debt caused her a great deal of anxiety and stress. So she'd like an apology and a full refund of all of the interest and fees charged since she opened the account. And Ms H wants any adverse reporting removed from her credit file.

Aqua said when Ms H opened her account she had no adverse credit problems and a gross income of around £16000. Ms H met its criteria and she'd been offered a credit limit of £450. Aqua said it regularly checked how customers were using their account as well as other credit commitments. Ms H had been given 40 days-notice of each increase. And she could've opted out if she wanted to.

Ms H had first contacted Aqua in July 2019 to say she was experiencing financial difficulties. And a repayment plan had been set up to help her. The account had been closed in March 2020 and the outstanding debt had been passed to a debt recovery unit. And Aqua felt the checks carried out before each increase had shown they were affordable.

Ms H wasn't satisfied with Aqua's response. So she contacted our service and our investigator looked into the matter. Our investigator didn't think Aqua had acted fairly. It shouldn't have given Ms H some of the lending it did. She felt it was reasonable for Aqua to offer Ms H a small credit of £450 when she opened her account.

And she didn't feel Aqua had acted unreasonably when it'd increased the credit limit to £1100 in July 2018. There was nothing to suggest Ms H was overcommitted or having financial difficulties.

But when Aqua increased the credit limit to £1850 in November 2018 Ms H's outstanding debts with other lenders had increased to nearly £900. And there were signs Ms H was struggling to maintain the credit she already had with Aqua.

The balance in October was over the agreed limit. And there'd been late payment fees and a returned direct debit. With her commitments to other lenders our investigator didn't think it was reasonable for Aqua to have increased the credit limit to £1850 in November.

So in brief she said Aqua should remove any interest and charges incurred as a result of the credit limit increase in November 2018.

Any repayments made by Ms H should be used to reduce the remaining balance. And any negative information should be removed from Ms H's credit file from November 2018 onwards.

Aqua didn't agree with our investigator. It didn't think a late payment or being over the credit limit was sufficient to say it was inappropriate to increase the credit limit without further checks. And the information it had showed other debts of around £600 at the time it considered the increase. It wasn't aware of the higher figure at the time. So it's asked for an ombudsman's final decision.

### **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'm sorry to hear about the difficulties Ms H has experienced. She feels if Aqua had carried out better checks it wouldn't have given her a credit card and then increased the limit. So I've looked carefully at everything Ms H and Aqua have said to see if Aqua has done anything wrong. And if so what it needs to do to put things right.

Ms H applied for a credit card with Aqua in February 2018. She said she had an income of £16000. Aqua carried out an affordability assessment and credit check before approving a credit card with a limit of £450. In July 2018 Aqua increased the limit to £1100. And in November it was increased again to £1850. Aqua says it took into account how Ms H was managing her account as well as her credit file. And both increases were approved in line with its lending criteria.

So the first thing I need to look at is whether I think Aqua carried out reasonable and proportionate checks. Section 5 of the Consumer Credit (CONC) sourcebook details the sort of assessment Aqua needed to carry out. Aqua is free to decide how to set its own lending criteria. But it has to complete proportionate checks to ensure the borrowing is sustainable.

I've looked at the affordability data Aqua has provided. The opening credit limit is modest and there's no history of credit or payment problems. So I think Aqua carried out proportionate checks when deciding to offer Ms H a credit card account and when setting the limit at £450.

In July 2018 Aqua increased the credit limit to £1100. Although that was a considerable increase within five months of the account opening there was nothing to show Ms H was experiencing any financial difficulties at the time. She had low levels of debt with other lenders although there'd already been one late payment fee applied to her account. Overall I think the levels of checks Aqua carried out were sufficient and proportionate.

When Aqua increased Ms H's credit limit in November to £1850 it carried out the same level of checks. And it felt the increase was affordable. But the previous month Ms H had again suffered a late payment fee. And she'd exceeded the current credit limit, incurring further fees. The October direct debit payment had also been returned unpaid.

Aqua says her credit with other lenders was around £600 at the time it approved the increase. It only rose to around £900 shortly afterwards.

But Ms H was clearly beginning to find it difficult to meet her monthly repayment commitments. She'd exceeded her existing credit limit. And further checks would've shown that Miss H was only receiving maternity pay at the time while increasing her commitment to other lenders.

Based on what I've seen I don't think Ms H was able to manage a higher credit limit in a sustainable manner at this point. I agree with our investigator that Aqua lent irresponsibly when it increased Ms H's credit limit to £1850.

Where we find credit has been lent irresponsibly our general approach is to direct the lender to refund the interest and charges but not the capital borrowed. Ms H has had use of this. And we ask the lender to remove any adverse information on the borrower's credit file from the date of the irresponsible lending onwards.

### **Putting things right**

As I think Aqua lent irresponsibly I'm going to direct it to refund all interest, fees and charges applied to Ms H's credit card as a result of the November 2018 limit increase. This means from November 2018 Aqua can only add interest accrued on a balance up to £1100.

Any repayments made by Ms H should be used to reduce the adjusted balance. If there is an outstanding balance Aqua should look to set up a suitable repayment plan with Ms H. If there are funds now owed to Ms H they should be repaid with 8% simple interest from the date of overpayment to the date of settlement.

I also don't agree it is fair for Aqua to report adverse information about a debt that was lent irresponsibly. So I'm going to tell Aqua to remove any negative information from Ms H's credit file from November 2018 onwards. And it should not be reapplied if any remaining balance is repaid within a reasonable period of time.

### **My final decision**

My final decision is that I partially uphold this complaint. NewDay Ltd must take the steps I've outlined under 'putting things right' above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 27 April 2022.

Andrew Mason  
**Ombudsman**