

The complaint

Ms W complains that NewDay Ltd trading as Aqua irresponsibly allowed her to open a credit card account which was unaffordable.

What happened

Ms W says she opened the Aqua credit card account in November 2017. She says at the time she had taken out a number of payday loans and was in financial difficulties. Ms W says she had a poor credit score at the time, and it ought to have been clear she was in financial difficulties. She says appropriate checks were not carried out by Aqua and would like all interest and charges refunded as well as any adverse information removed from her credit file.

Aqua says the account was opened on 2 November 2017 and Ms W declared an income of £1,500 a month with additional household income. It says it calculated Ms W's debt at about £700 and considered that the last adverse information on her credit file was over two years before the application. Aqua says it checked the credit file and couldn't see any payday lending recorded at that stage or any accounts in arrears. It says it approved a credit limit of £250 and says the account balance was repaid in 2018.

Ms W brought her complaint to us and our investigator upheld the complaint. The investigator looked at Ms W's credit file and could see a number of payday loans taken out before the credit card account was opened. The investigator thought that indicated that the credit card account was likely to be unaffordable. The investigator recommended interest and charges be refunded and if necessary, interest paid to Ms W as well as her credit file amended.

Aqua doesn't accept that view and says it didn't have any information about payday loans when it checked Ms W's credit file and says it isn't responsible for the reporting dates.

I asked Ms W for further information about the payday loans as well information about her income. I also asked her for her bank account statements, but she has not replied to that request.

My provisional decision

I issued a provisional decision about this complaint and said as follows.

I thought that appropriate checks were carried out by Aqua before approving the credit card account.

I said that lenders and credit providers must carry out reasonable and proportionate checks on any lending or credit applications. Those checks will of course vary depending on the type and amount of such lending. I said I wouldn't have expected Aqua's checks to have been as detailed compared to a mortgage application and could see this was a credit facility

application. But of course, appropriate checks must still be carried out.

I could see that Ms W applied for the account in 2017, but it was not clear when exactly she applied for the account but could see it was approved on 2 November 2017. I said I hoped Aqua or Ms W could confirm the exact date before my final decision. I could also see that Ms W declared an income of £1,500 a month from employment and said there was additional household income of £1,900 a month.

I looked carefully at Aqua's records and I was satisfied that it did carry out checks on Ms W's application and considered her credit file. I saw that it calculated her other debt at about £700 and considered that the only adverse information was recorded over two years before the application. I was satisfied that Aqua did check Ms W's credit file for other loans and payday lending but did not see any information about that type of lending. So, I was satisfied that Aqua did carry out reasonable and proportionate checks on Ms W's application and that those checks didn't reveal any information which suggested the lending was unaffordable. I said it follows that I didn't think Aqua's lending was irresponsible or on the face of it unaffordable.

I appreciated Ms W provided us with a copy of her credit file which I looked carefully at. I could see that there wasn't any adverse information recorded on it but accepted that there were applications for short term lending at or around the time of the Aqua application. I made clear that I thought Aqua did check for such lending and I couldn't fairly hold it responsible for the date that lending was reported to the various Credit Reference Agencies (CRA's). I thought on balance that due to the date of the lending, it was possible that at the time of Aqua's checks, that the credit file didn't have such information. I also didn't think it clear how many short-term loans were taken out and their dates as it appears, they may be duplicated on Ms W's credit file. That is the reason I said I asked for information from Ms W about them and for copies of her bank account statements

Overall, I was satisfied that Aqua carried out appropriate checks on Ms W's application. I was also satisfied Aqua approved what I thought was a very modest credit limit of £250, which on the face of it ought to have been affordable considering Ms W's income and limited other debt. I saw that the debt had now been repaid.

Ms W hasn't replied to my provisional 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.

Having done so I have come to the same overall view that I reached in my provisional decision and for the same reasons.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 9 November 2022.

David Singh
Ombudsman