

The complaint

Mrs F complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved her credit card application and went on to increase the credit limit.

What happened

In 2016 Mrs F applied for an Aqua credit card. In the application, Mrs F said she was employed earning £25,000 and was a homeowner. Aqua carried out a credit search and found Mrs F had five defaulted accounts totalling £8,300 with the most recent default being recorded 22 months earlier. Aqua also found £4,800 of unsecured debt and a mortgage of £272,000. Aqua's application didn't record any other household income, monthly accommodation costs or living expenses. Aqua approved a credit card for Mrs F with a limit of £1,200.

Mrs F used the credit card and made monthly payments. In June 2016 Aqua increased the credit limit to £1,400 and in October 2016 it went up again, this time to £2,600. Aqua says it carried out affordability checks both times the credit limit increased.

In 2017 Mrs F's account fell into arrears and was ultimately closed with a default being recorded on her credit file.

Last year, Mrs F complained that Aqua had lent irresponsibly when it approved her credit card and later increased the credit limit. Aqua sent Mrs F a final response explaining it didn't agree it had lent irresponsibly.

An investigator at this service looked at Mrs F's case and upheld it. They thought Aqua had lent irresponsibly when approving the application and increasing Mrs F's credit limit. They asked Aqua to refund all interest and charges, amend Mrs F's credit file and potentially agree a fair repayment plan for any remaining balance. Aqua didn't agree it had lent irresponsibly and asked to appeal. As a result, Mrs F's complaint has been passed to me to make a 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.

Before agreeing to lend, the rules say Aqua had to complete reasonable and proportionate checks to ensure Mrs F could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit; -
- The total sum repayable and the size of regular repayments; -
- The duration of the agreement; - The costs of the credit; and –
- The consumer's individual circumstances.

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate.

I've looked at the information Aqua had available when it assessed Mrs F's application. Mrs F confirmed she was employed with an income of £25,000. But when Aqua carried out a credit search it found unsecured credit for around £4,800 plus several defaults with a total value of around £8,300. Some of the defaults were less than two years old. In addition, Aqua found Mrs F had a mortgage of around £272,000. The monthly payments were around £1,350. Mrs F's application didn't contain any other income details for her household.

In my view, the information available to Aqua showed Mrs F had a significant level of outstanding debt in her name when she applied for the credit card. The mortgage balance was over ten times Mrs F's income and that she'd defaulted on a substantial level of unsecured debt around two years before the application was made. I'm satisfied there were signs she may've been borrowing in an unsustainable way. And I think that should've caused Aqua to consider a completing more comprehensive checks before deciding to proceed.

In response to the investigator, Aqua said it was likely Mrs F's husband also worked. But I think a more appropriate point to have sought additional information about household finances would've been when Mrs F applied in 2016. Mrs F has confirmed her husband also works and paid towards the mortgage and household expenses. But I still think Aqua ought to have carried out better checks to ensure Mrs F could afford to manage and repay another debt.

In much the same way, I'm not persuaded reasonable checks were carried out when Mrs F's credit limit was increased to £1,400. The credit card had only been subject to three payments at this point so there was only a limited track record of Mrs F's borrowing with Aqua. Aqua's affordability data shows Mrs F's unsecured borrowing had gone up by around £500 in four months and that she had active short term lending.

After another four months, the credit limit was increased again. The new credit limit was £2,600, almost double the previous credit limit. Again, Mrs F's unsecured credit had increased and she had active short term lending. Taken with the above factors, I think Aqua should've carried out better checks before extending Mrs F's credit limit.

Mrs F has provided the transaction history from her current account. I can see a regular outgoings for Mrs F's credit commitments, mortgage, utilities and living costs. Even factoring other income received into the account, I'm satisfied the information shows Mrs F was unlikely to be in a position to sustainably manage further borrowing. In my view, if Aqua had completed better checks and got a more comprehensive picture of Mrs F's circumstances it would've declined to proceed.

Based on the information available, I'm upholding Mrs F's complaint and direct Aqua to settle as follows:

- Refund all interest, fees and charges applied Mrs F's credit card from inception to date
- If the rework results in a credit balance, this should be refunded to Mrs F along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Aqua should also remove all adverse information regarding the credit card from Mrs F's credit file
- Or, if after the rework, there is still an outstanding balance Aqua should arrange an affordable repayment plan with Mrs F on an interest free basis. Once Mrs F has

cleared the balance, any adverse information in relation to the account should be removed from their credit file

*HM Revenue & Customs requires Aqua to deduct tax from any award of interest. It must give Mrs F a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax

My final decision

My decision is that I uphold Mrs F's complaint and direct NewDay Ltd trading as Aqua to settle in line with the above guidance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 9 February 2023.

Marco Manente
Ombudsman