

## **The complaint**

Mr M complains that NewDay Limited Ltd as Aqua lent irresponsibly when it increased the credit limit on his credit card.

## **What happened**

Mr M had an Aqua credit card that had a credit limit of £1,150. In December 2007, Mr M's credit limit was increased to £1,550. Aqua increased the credit limit again to £1,850 in April 2008 and £2,150 in April 2022. From 2014, the credit limit was reduced in stages. Aqua says Mr M repaid the balance in full in 2019. The credit card was later closed.

Last year, representatives acting for Mr M complained that Aqua lent irresponsibly when increasing his credit limit to £1,150 in December 2007 and the two subsequent credit limit increases. Aqua issued a final response on 13 January 2024 but didn't uphold Mr M's complaint. Aqua said the decision to approve the credit limit increases had all been made following the necessary checks to ensure they were affordable for Mr M.

The complaint was referred to this service and passed to an investigator. The investigator noted there was limited information available and that they'd only been able to review Mr M's bank statements for the two months before the credit limit increase to £2,150 in April 2012. They weren't persuaded that Aqua had lent irresponsibly and didn't uphold Mr M's complaint. Mr M's representatives asked to appeal and said Mr M had incurred overdraft fees in the months before the final credit limit increase. They also said Mr M had around £9,200 of debt at the time of the increase and that his statements showed a deficit of around £600 in the preceding months. As Mr M asked to appeal, his 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 by increasing the credit limit, the rules say Aqua had to complete reasonable and proportionate checks to ensure Mr M 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. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances

by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

In this case, Mr M's complained about the credit limit increases in December 2007 in £1,550 and April 2008 to £1,850. But due to the passage of time, there is a limited amount of information available. Mr M's representatives have said he's been unable to get bank statements for the months preceding the credit limit increases. In addition, no proof of Mr M's income or other evidence to show his circumstances during this period remains available. Aqua, in turn, hasn't got evidence to show what specific checks it completed as that information is no longer available. But we do have Aqua's risk data for the period that shows the payments Mr M made and the balance of his credit card.

Looking at the information, Mr M's account was handled well without any missed or late payments and no overlimit fees were incurred. I haven't seen anything that would've indicated to Aqua that Mr M was struggling to make ends meet. In my view, the information doesn't show Aqua lent irresponsibly.

Mr M was able to send us bank statements for February and March 2012 – the months immediately preceding the credit limit increase from £1,850 to £2,150. I can see that they show Mr M was overdrawn during the period and receiving weekly income. Whilst I note the account was overdrawn, I haven't been persuaded that, in itself, meant Aqua lent irresponsibly. Mr M's statements show he earned around £1,600 in February 2012 and £1,900 in March 2012. Mr M had outgoings for direct debits and regular bills (including his mortgage) that totalled around £950. That means Mr M had roughly £650-£950 remaining to cover his everyday spending. To me, Mr M's account statements shows he did have capacity to make further repayments for his credit card with Aqua.

In response to the investigator, Mr M's representatives advised he had around £9,000 in unsecured debt at the time. Whilst no evidence to support that has been supplied, I can see Mr M was making regular payments to creditors from his bank account. I think it's more likely than not that the credit search Aqua completed at the time would've identified those debts and their monthly cost to Mr M. So whilst I accept Mr M had existing debts, I'm satisfied the costs for servicing them were most likely factored into Aqua's decision.

Mr M's account statements appear to be well run with no returned payments or overlimit fees. I can see Mr M was incurring fees for using his overdraft but that they appear to have been affordable to Mr M. And whilst I agree the cost of maintaining Mr M's overdraft was something Aqua had to consider, I'm not persuaded the overdraft balance automatically demonstrates it lent irresponsibly.

In my view, even if Aqua had reviewed Mr M's bank statements I think it still would've approved Mr M's credit limit increase – for the reasons noted above. Whilst I'm sorry to disappoint Mr M, I haven't been persuaded that Aqua lent irresponsibly.

### **My final decision**

My decision is that I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 July 2024.

Marco Manente  
**Ombudsman**