

The complaint

Mrs T complains that NewDay Ltd trading as Aquacard have irresponsibly lent to her.

Mrs T is represented by a claims management company in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Mrs T herself.

What happened

Mrs T was approved for an Aqua credit card in July 2021 with a £1,200 credit limit. I have detailed the credit limit changes below:

November 2021	£1,200 to £3,200
February 2022	£3,200 to £4,700
February 2024	£4,700 to £3,700

Mrs T says that Aqua irresponsibly lent to her. Mrs T made a complaint to Aqua.

Aqua did not uphold Mrs T's complaint. They said they considered the income and other information provided in Mrs T's application alongside the information available from Credit Reference Agency (CRA) data. They said the limits were applied responsibly. Mrs T brought her complaint to our service.

Our investigator did not uphold Mrs T's complaint. She said Aqua should have made further checks, based on a declared income of £5,000 per annum. She said the checks showed £137 in credit commitments, but further checks would have shown the credit limits were affordable for Mrs T.

Mrs T asked for an ombudsman to review her complaint. She said she had not been asked to provide evidence of her income and outgoings. She said she didn't ask for credit limit increases, and she didn't know where a figure of £137 came from for credit commitments, or £5,000 for income.

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 approve or increase the credit available to Mrs T, Aqua needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Aqua have done and whether I'm persuaded these checks were proportionate.

Acceptance for the Aqua credit card - initial credit limit (£1,200)

I've looked at what checks Aqua said they did when initially approving Mrs T's application. I'll address the credit limit increases later on. Aqua said they looked at information provided by CRA's and information that Mrs T had provided before approving her application.

The information showed that Mrs T had declared a gross annual income of £5,000. But that's not all Aqua's data showed. The data showed that Mrs T had previously defaulted on an agreement 71 months ago.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing.

The data also showed that in the last six months, Mrs T was one month in arrears on her mortgage payment, and that the total of her unsecured credit commitments being reported from the CRA Aqua used was £137 a month. So based on the low income recorded and the recent arrears, I'm persuaded that Aqua should have completed further checks to ensure the £1,200 credit limit would be affordable and sustainable for her.

There's no set way of how Aqua should have made further proportionate checks. One of the things they could have done was to contact Mrs T to get an understanding of how she was able to meet her outgoings on a low income, and what happened regarding the arrears on her mortgage. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

So I asked Mrs T if she could provide her bank statements for the three months leading up to the account being approved so I could see if the initial credit limit would be affordable and sustainable for her. But Mrs T did not provide these by the deadline given, even though I extended the deadline for her.

So on the face of it, it does look like Aqua should've looked more closely into this. But as my role is impartial, that means I have to be fair to both sides and although I'm satisfied that Aqua should've done more checks here – I can't say whether further checks would've revealed further information which means they wouldn't have lent. So as Mrs T hasn't provided me with her bank statements, that means that it wouldn't be fair for me to say that Aqua shouldn't have lent here, because I don't know what further checks would reveal.

November 2021 credit limit increase - £1,200 to £3,200

I've looked at what checks Aqua said they did when increasing the credit limit from £1,200 to £3,200. The data from a CRA shows that Mrs T had active unsecured borrowings of more than half of her declared gross annual income prior to the credit limit increase. So she had been using more credit than what she previously had been using.

But that's not all the data showed. Aqua had estimated Mrs T's disposable income to be £2,664.08 a month, using data from the CRA's, including current account turnover. But based on Mrs T's declared income only four months earlier of £5,000 per annum, this wouldn't be possible if she had given accurate information.

So I'm persuaded that Aqua should have completed further checks to ensure the £3,200 credit limit would be affordable and sustainable for her, given she already had unsecured debt, which was more than half her declared income, and the £2,000 increase in the credit limit alone would represent 40% of her gross declared income.

There's no set way of how Aqua should have made further proportionate checks. One of the

things they could have done was to contact Mrs T to get an understanding of how she was able to meet her outgoings on a low income. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Our investigator had asked Mrs T if she could provide her bank statements for the three months leading up to the £3,200 credit limit being approved. Mrs T provided these statements, so I've reviewed these to see if a credit limit increase would be affordable and sustainable for Mrs T.

Mrs T's bank statements show that for all three statement periods, a salary credited her account which was over £2,000 in all three months. So it does appear that Mrs T made an error on her application when she told Aqua that she had a gross annual income of £5,000 per annum.

Mrs T's bank statements show her account was well run with her frequently having an account balance of three figures, and each month shows that she was able to transfer £100 a month into a savings account.

So if Aqua had requested Mrs T's bank statements as part of a proportionate check based on her declared income, and the level of debt she had (and would have with the credit limit increase), then I'm persuaded that they still would have approved the credit limit increase to £3,200. And I'm persuaded that Aqua made a fair lending decision here.

February 2022 credit limit increase - £3,200 to £4,700

I've looked at what checks Aqua said they did when increasing the credit limit to £4,700. The data from a CRA shows that Mrs T's active unsecured borrowings had more than quadrupled since the last credit limit increase which was only months earlier. So this could indicate that Mrs T was hungry for credit.

So I'm persuaded that Aqua should have completed further checks to ensure the £4,700 credit limit would be affordable and sustainable for her, given her unsecured debt had more than quadrupled in a number of months.

There's no set way of how Aqua should have made further proportionate checks. One of the things they could have done was to contact Mrs T to get an understanding of why her borrowings had increased so much in a short period of time. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Mrs T has provided her bank statements for December 2021-February 2022. But to be fair to both sides, it's unlikely her February 2022 statement would have been produced prior to the credit limit increase. So I've focused my attention on her December 2021 and January 2022 bank statements.

Mrs T's bank statements show that for both of these months, a salary credited her account which was over £2,350. I can see a personal loan credited her account from a third party company for £4,000 on 18 December 2021. So this in part would be a reason why her unsecured borrowings had increased.

But Mrs T's bank statements again show her account was well run with her frequently having an account balance of three figures, and each month shows that she was able to transfer £100 a month into a savings account. Her account wasn't overdrawn at any point. I do note from Aqua's data that it appears that Mrs T made higher repayments than her minimum

payments, so it would appear that she did have the affordability to be able to sustain repayments for a higher credit limit.

So if Aqua had requested Mrs T's bank statements as part of a proportionate check based on the increased debt in such a short period of time, then I'm persuaded that they still would have approved the credit limit increase to £4,700. And I'm persuaded that Aqua made a fair lending decision here.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that Aqua lent irresponsibly to Mrs T or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here. So it follows I don't require Aqua to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 6 December 2024.

Gregory Sloanes
Ombudsman