

The complaint

Miss B 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

Miss B applied for a credit card with Aqua in May 2020. In her application, Miss B said she was employed with an income of £11,000. Aqua used a net income of figure of £825 a month. Aqua recorded housing costs of £244.94 a month and cost of living expenses of £401.98. Aqua also carried out a credit search and found Miss B had existing repayments to other unsecured lenders of around £114.48 a month. Aqua applied its lending criteria and says it found Miss B had around £47.68 a month as disposable income. Aqua approved the credit card with a limit of £450.

In October 2020 Aqua increased Miss B's credit limit from £450 to £1,200. Aqua's lending data shows it used a higher net monthly income of £2,567 for Miss B and recorded she had housing costs of £676. Loan repayments of £65 and payments to credit cards of £101 were noted. Aqua also used a cost of living figure of £490 for Miss B's day to day expenses. Aqua says Miss B had £1,227 available as disposable income and approved the credit limit increase to £1,200.

Since the credit limit increase, Miss B has missed some monthly payments. Earlier this year, Miss B complained that Aqua lent irresponsibly and it issued a final response on 22 May 2024. Aqua said it had carried out the relevant checks to ensure the credit card was affordable for Miss B and didn't uphold her complaint.

An investigator at this service looked at Miss B's complaint and upheld it. They thought that Aqua should've realised the credit card wasn't sustainable for Miss B after finding she only had £47 a month left as disposable income when completing the original application. The investigator asked Aqua to refund all interest fees and charges applied to Miss B's credit card from inception and work with her to agree an affordable repayment plan. The investigator also said that once the balance was repaid, Aqua should delete any negative information reported on Miss B's credit file.

Aqua didn't respond to the investigator's recommendation so Miss B'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 or increasing the credit limit, the rules say Aqua had to complete reasonable and proportionate checks to ensure Miss B 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.

Aqua's provided the lending data it used when considering Miss B's application. I can see Aqua applied estimated living costs, housing costs and regular payments she was making to her other creditors. The result of those checks showed Miss B's estimated disposable income was only £47 a month. The investigator thought that such a limited disposable income should've shown Aqua that a new credit card would be sustainable for Miss B in the long term. I agree with the investigator's view that a disposable income of £47 was extremely limited and left Miss B with almost no capacity for unexpected expenses or emergencies. It also meant Miss B had a very limited capacity to repay the outstanding balance both on her existing debts or her new Aqua credit card.

In my view, the checks Aqua carried out should've shown Miss B wasn't in a position to sustainably afford a new credit card in addition to her existing commitments. I agree with the investigator that Aqua lent irresponsibly when it approved the original application Miss B made in May 2020.

It follows that if I think Aqua lent irresponsibly by approving the first application, I think the same about the decision to increase Miss B's credit limit from £450 to £1,200. I can see that Aqua's lending data shows different income and outgoings figures for Miss B prior to the credit limit increase. The income recorded increased from £1,100 to £2,567 between May and October 2020 and I understand that Aqua says the figure was based on credit file information it obtained. But I'm not persuaded it was realistic of Aqua to take the view that Miss B's income had doubled in the five months she'd held her credit card without looking to verify it further. I think Aqua should've either declined to increase the credit limit altogether or sought to complete a more comprehensive review if it was going to use an income of more than double that recorded in the original application. Seeking evidence of Miss B's income or obtaining her bank statements were options available to Aqua, for example.

Overall, I haven't seen evidence that shows the disposable income figure of £1,227 Aqua used when deciding to increase the credit limit realistically reflected Miss B's circumstances at the time. I'm satisfied that Aqua should've done considerably more before increasing the credit limit to £1,200 or declined to do so altogether.

I've considered whether the business acted unfairly or unreasonably in any other way including whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Miss B in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Based on the evidence available, I agree with the investigator's conclusions that Aqua lent irresponsibly. As a result, I'm upholding Miss B's complaint and directing Aqua to refund all interest, fees and charges applied since the credit card was opened in May 2020.

My final decision

My decision is that I uphold Miss B's complaint and direct NewDay Ltd trading as Aqua to settle as follows:

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- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Miss B along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove all adverse information regarding this account from Miss B's credit file.
- Or, if after the rework there is still an outstanding balance, Aqua should arrange an affordable repayment plan with Miss B for the remaining amount. Once Miss B has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

*HM Revenue & Customs requires Aqua to deduct tax from any award of interest. It must give Miss B a certificate showing how much tax has been taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 21 November 2024.

Marco Manente
Ombudsman