

The complaint

Mrs G complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved his credit card application and later increased the credit limit.

What happened

Mrs G applied for an Aqua credit card in February 2022. Mrs G said she had an income of £12,000 a year. Aqua applied an estimate for Mrs G's rent of £215 and a cost of living of £467 a month. Aqua carried out a credit search and found Mrs G owed around £3,500 to other unsecured lenders and was making monthly repayments totalling £274. After Aqua deducted Mrs G's outgoings from her income it found she had an estimated disposable income of £28.93 a month. Aqua approved a credit card with a limit of £1,200.

In December 2022 Aqua increased Mrs G's credit limit to £2,050. Aqua says it looked at Mrs G's account history and checked her credit file. Mrs G's unsecured debts had increased to £4,500. Aqua says Mrs G's income had also increased with her receiving £2,716 a month, up from £1,000 ten months earlier. Aqua applied cost of living, rent and Mrs G's existing credit commitments to her income and says she had an estimated disposable income of £1,577 a month. Aqua approved the credit limit increase to £2,050.

Last year, representatives acting on Mrs G's behalf complained that Aqua lent irresponsibly when approving her application and increasing the credit limit. Aqua issued a final response on 23 May 2024 but didn't agree it lent irresponsibly and didn't uphold Mrs G's complaint.

An investigator at this service looked at the application data Aqua provided and noted it found Mrs G only had around £28 a month as an estimated disposable income. The investigator thought that the application data Aqua used showed Mrs G was unable to afford further borrowing and should've led it to decline her application. The investigator upheld Mrs G's complaint and asked Aqua to refund all interest, fees and charges applied to Mrs G's credit card from inception. Aqua asked to appeal, so Mrs G'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 Mrs G 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.

As noted above, Mrs G's application included details including her income. Aqua carried out a credit search and found Mrs G's existing commitments were being met and no adverse information, like defaults or County Court Judgements, were found. Aqua also applied a rent figure and estimate of Mrs G's general outgoings to the application. Aqua ultimately found Mrs G only had £28.93 available as a disposable income once her existing outgoings and commitments were met. That is a very low disposable income figure in terms of Mrs G's ability to be able to afford a new credit card in addition to any unexpected or emergency expenses she may've had.

In some cases, it can be argued that a lender should carry out additional checks to ensure a new credit facility is sustainable for the borrower. But here, I'm satisfied that finding Mrs G had such a limited disposable income should've led Aqua to decline her application altogether. Given Mrs G's monthly repayment when the balance was £1,230.91 in October 2022 was £57.87, I'm satisfied Mrs G's estimated disposable income of £28.93 wasn't sufficient for her to make repayments without causing difficulties. In my view, Aqua lent irresponsibly when it approved Mrs G's credit card application.

Given I've found Aqua lent irresponsibly when approving Mrs G's application, I think it's fair to say I take the same view of its decision to increase the credit limit further to £2,050 in December 2022. Aqua's provided copies of its lending data that indicates it found her income had increased to £2,716 a month after deductions. But I think it's reasonable to note Mrs G's outstanding unsecured debt had increased in the ten months since she first applied which is at odds with an increase in her monthly income from £1,000 to £2,716. I understand the estimated income figure is based on information Aqua obtained from a credit reference agency but I'm not persuaded an increase of that level in a ten month period was realistic.

I think Aqua should've either declined Mrs G's application or sought to get a more detailed picture of her circumstances. Overall, I haven't seen evidence that shows the disposable income figure of £1,577 Aqua used when deciding to increase the credit limit realistically reflected Mrs G's circumstances at the time. Based on the information I've seen, I'm satisfied it wasn't reasonable for Aqua to increase the credit limit to £2,050 in December 2022.

Based on all the available evidence, I'm satisfied Aqua lent irresponsibly when it approved Mrs G's credit card application and went on to increase the credit limit so I'm upholding her complaint and directing it to refund all the interest, fees and charges applied.

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 Mrs G 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.

My final decision

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

- 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 Mrs G 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 this account from Mrs G's credit file.
- Or, if after the rework there is still an outstanding balance, Aqua should arrange an affordable repayment plan with Mrs G for the remaining amount. Once Mrs G 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 Mrs G 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 Mrs G to accept or reject my decision before 5 February 2025.

Marco Manente
Ombudsman