

The complaint

Miss A complains that NewDay trading as Aqua lent irresponsibly when granting her a credit card and subsequent credit increases.

What happened

In August 2018 Miss A applied for a credit card with Aqua with an initial limit of £450. Her limit went on to be increased a further three times:

- January 2020 to £1,200
- October 2021 to £2,700
- April 2022 to £3,700

The increases were initiated by Aqua, giving Miss A the option to opt out. Miss A complains that she should have never been given the credit card or subsequent limit increases. She argues that if Aqua had checked her credit file it would have seen she had a very low score and many debt accounts with adverse payment history. And so it should have concluded that she couldn't have afforded to repay the credit given.

Aqua considered her complaint but didn't uphold it. It argued that it completed proportionate checks before agreeing the initial credit card and subsequent limit increases. And based on those checks, it was appropriate to lend. Miss A didn't agree and so referred her complaint to our service. Our investigator considered the complaint and upheld all the limit increases. Aqua didn't agree and so the complaint has been passed to me to consider.

I issued a provisional decision setting out why I didn't think I could uphold the complaint. In my provisional decision I said:

Aqua needed to make sure it lent responsibly to Miss A. It therefore needed to complete sufficient checks to determine if Miss A could afford to sustainably repay the lending. Our website sets out our approach to what we typically think when deciding if a lender's checks were proportionate. There is no set list of checks a lender should do, but there is guidance on the types of checks a lender could complete. However, these checks needed to be proportionate when considering things like the amount and term of the lending, what the lender already knew about the consumer, etc.

Generally, we think that earlier in a lending relationship it would be reasonable for a lender's checks to be less extensive. However, we might expect a lender to do more, for example, if a borrower's income was low or the amount lent was high.

Before agreeing the initial credit card limit Aqua has said it completed a credit search, it asked Miss A for her employment status and gross annual income. Miss A declared she was employed earning an annual income of £18,282 (and so approximately £1,350 net income per month). She had under £100 of unsecured debt from looking

at the credit check Aqua completed and this didn't show things like defaults/ adverse information suggesting she didn't have any recent problems managing her money.

Having considered the checks Aqua completed, I think they were proportionate when considering the relatively low initial limit given (£450). Aqua confirmed with Miss A that she was employed, it took details of her income and explored her existing financial commitments and repayment history. So I think this was sufficient in the circumstances. Based on the information the checks revealed, this suggested Miss A could've afforded to repay the credit being provided. I say this because there wasn't anything concerning in what the checks revealed which should've caused Aqua to have asked additional further questions. So I think Aqua made a fair lending decision in relation to the initial credit card limit.

Prior to each subsequent limit increase it's not entirely clear what checks Aqua completed. I can't see it asked for details of Miss A's current income or verified this. Given there was almost 18 months between the first application (where it asked for this information) and the subsequent limit increase, I don't think it was reasonable to rely on her previous income declaration. I also can't see it asked for details of her income when it further increased her credit card limit in October 2021 or April 2022. It does look as though Aqua completed a credit search. It also would've been able to review how Miss A was managing her credit card account prior to each limit increase.

Taking all the checks Aqua completed into consideration, I don't think it completed proportionate checks before agreeing any of the limit increases. As explained above, at no point before increasing the limit has Aqua shown it's taken steps to gather information about Miss A's income. And given the passage of time between granting the initial limit and the subsequent increases, I don't think it would have been reasonable to rely on her earlier income declaration. Particularly when considering the significant increases in the limits being granted and that this amount wasn't verified in the first instance. Within 18 months of the initial limit Aqua had increased her limit to almost three times this (from £450 to £1,200). It then went on to increase it to £2,700 just under two years later, before increasing it again to £3,700 around six months after this. I have taken into consideration that Aqua completed a credit search and in all likelihood considered the running of the account. However, without any details of income or other regular expenditure I can't see how Aqua was able to determine that Miss A would've been able to sustainably repay credit balances up to these kinds of limits.

As proportionate checks weren't completed, I can't say for sure what they would've uncovered. Miss A has provided copies of her current account bank statements and recent credit file, together with testimony about her circumstances at the relevant times. In the absence of anything else I think it's reasonable to consider this information when determining what proportionate checks would have most likely revealed.

In January 2020 Miss A's balance on her Aqua credit card was just under £400. Aqua has provided details of the credit search it completed which show limited results but suggests she had around £800 in existing credit. From looking at her bank statements I think this was the credit card in question and another credit card Miss A held. Miss A has said that around this time she was unemployed on benefits and no one else was helping with bills and rent (although she did say her family did occasionally transfer some for food). Having reviewed Miss A's statements in the three months leading up to the first increase (in late 2019) I can't see credits for benefits. I can see a large number of transfers in and out of this account to other accounts in her name and an additional account. I can also see a number of credits

from a named third party. I asked Miss A for more information about the credits from the third party which haven't been provided. I also asked Miss A for details about her other accounts and Miss A has said the accounts have never have balances in. Given the volumes of transfers in and out of the account and that I can't see credits for benefits, I don't think the statements I have allow me a full enough picture of Miss A's circumstances at the time. I'm therefore not persuaded I have sufficient information to establish what proportionate checks would have uncovered at the time of the January 2020 increase. So I'm not intending to uphold this part of her complaint.

Turning to the next increase in October 2021 Miss A's limit went from £1,200 up to £2,700. I can see that her balance on the credit card was around £460 the month prior to her limit increase. In addition, she had around £2,000 in existing credit (which is likely to have included her Aqua credit card). Miss A has explained she was unemployed and on benefits. I've looked at Miss A's bank statements in the three months leading up to this increase and again I'm not entirely clear on her circumstances. Whilst there are credits for benefits, there are also transfers into this account from another account in her name which Miss A hasn't provided full details of. In addition, there are a large number of smaller credits into her account across the three statements viewed. So I can't be satisfied what her circumstances were. As such I'm therefore not able to safely conclude that proportionate checks would have revealed that Miss A couldn't have afforded this limit increase.

In April 2022 Aqua again increased Miss A's limit to £3,700. Her balance on the card at this time is around £300 and from the credit search Aqua provided, her total credit balances (including the Aqua card) had reduced to around £1,300 suggesting her circumstances were improving. From looking at her current account statements for the three months leading up to this increase, I can see her benefits are coming into this account, but again there are credits from another account in her name. So I'm still not fully clear what her income is or her wider circumstances at this time. I am therefore planning to reach the same finding as I did with the earlier increases – which is I don't have sufficient information to determine what proportionate checks would have most likely revealed.

Miss A has told this service of her financial struggles and I want to be clear that I don't doubt what she's said, and I am sympathetic to her circumstances. However, from the information I have available, I think it's most likely that this relates to a later period of time and after the final limit increase. I say this because from the information Aqua has provided I can see her balance on the account starts to build after this increase and by October 2022 her balance is close to her limit (whereas prior to the limit increase it was around £300). Her levels of existing debt also increased rapidly after this limit increase. In February and March 2022 (prior to the increase) they're around £1,300- £1,400 based on the credit searches Aqua completed. From June 2022 they start to increase rapidly and by October 2022 they're around £6,000 and continue to increase month on month. And by August 2023 they had exceeded £10,000. And whilst Miss A has said her credit file would have shown substantial adverse information, I can't see this in the search results from Aqua's checks or her own credit report prior to each limit increase.

In addition, Aqua has said Miss A contacted it in October 2022 to explain she'd had a change in circumstances. It said she informed Aqua that she was self-employed but had been struggling due to health concerns. At this time it agreed to a £75 repayment plan and froze interest for around 4 months. In February 2024 Miss A contacted Aqua again to say she was disabled and in receipt of benefits, so Aqua agreed a £50

repayment plan. Taking all this into consideration, I think Aqua has taken steps to help Miss A after she informed it she was struggling.

I've considered whether Aqua acted unfairly or unreasonably in any other way. However, as explained above, I don't have sufficient information to conclude that Aqua lent irresponsibly to Miss A or otherwise treated her unfairly in relation to the limit increases. And I don't think Aqua lent irresponsibly or otherwise treated her unfairly in relation to the initial limit provided. I also think that when Miss A later started to struggle repaying her credit card, Aqua has shown it took some steps to support Miss A. So I haven't seen anything to suggest that section 140A Consumer Credit Act 1975 or anything else would, given the facts of this complaint, lead to a different outcome here.

I asked both parties to provide me with anything further they would like me to consider before I reached a final decision. Aqua acknowledged receipt of my provisional decision but hasn't provided any further information. Miss A has provided additional testimony and further bank statements for other accounts in the months leading up to the limit increases.

Miss A has explained she wasn't previously aware of the dates of the increases, and this is why her response to my information request prior to issuing a provisional decision was vague. She's also said she finds providing information of this nature overwhelming, confusing and stressful.

She's said with the extra time given she has been able to provide bank statements for her two other accounts and gather more information from her universal credit statements. She's also provided further testimony about her circumstances.

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.

Having done so I'm still not going to uphold this complaint, for largely the same reasons as my provisional decision (which forms part of this decision). However, I would like to comment on the additional information Miss A has provided.

In relation to Aqua agreeing the initial limit in August 2018, I've not been provided with anything to dispute the initial findings reached. So for the reasons explained above, I think Aqua completed proportionate checks before agreeing to lend and based on what the checks revealed, I think it was reasonable to agree the initial limit.

Turning to the three limit increases, for the reasons explained in my provisional decision I don't think Aqua completed proportionate checks. So I've considered if I now have sufficient information to determine what proportionate checks would have most likely shown.

I don't doubt it has been difficult for Miss A to provide information about her circumstances for the relevant periods and I appreciate the efforts she's taken to do this. However, details of the relevant time periods were set out in both my information request and the investigator's assessment. So, I don't agree the limit increase dates weren't made clear to her prior to my provisional decision. However, as I've explained, I accept what she's said about finding this challenging which may have caused inconsistencies in her testimony. And I've taken this into consideration when reviewing her complaint. However, the information she's provided in response to my provisional decision still doesn't persuade that I have a complete enough picture of her circumstances prior to each limit increase.

Miss A has maintained that she was “*drowning in debt*” throughout this period. However as explained in my provisional decision, at the time of each increase Aqua completed a credit search and Miss A has provided a copy of her recent credit file. Whilst I accept this information shows she had some other debt, I don’t agree this demonstrates she was struggling or struggling to the extent she describes during the periods leading up to each increase. And as explained in my provisional decision, I think this came after the last limit increase.

I have reviewed the two additional sets of bank statements Miss A has provided. Taking the earlier account first, I can see she is transferring money between this account and her current account in an attempt to create savings. However, she doesn’t achieve this, and the money is returned to her current account. I’ve taken this into consideration, but I don’t think that not being able to save money necessarily means she can’t afford the limit increases or that proportionate checks would have most likely show this. The account statements for the second account again shows transfers in and out of the account and some regular expenditure. But again I don’t think it shows the extent of the debt and money troubles Miss A says she experienced during this period.

I’ve thought about everything Miss A has told me in response to my provisional decision, together with the two additional sets of statements. However, I still don’t think I have a clear enough picture of her circumstances so I can’t conclude what proportionate checks would have most likely shown. For example in response to my provisional decision, Miss A has said the prior to the first increase the transfers into her account from the named third party were “*odd amounts*” to pay for food etc. as she paid the bills. However, from what I can see, I think their contribution to household expenditure was more than this. And although she’s said they also occasionally made transfers to help with debts, the payments tend to be more regular (supporting the argument that they were contributions towards regular expenditure).

Turning to the second increase, again I’m still not clear on her circumstances, in particular on what her regular expenditure is or what contribution the named third party makes to her overall expenditure. Looking at the third increase, I can see she was receiving payments into one of her accounts for wages/ income from her business (as by this time she had started her own business) and she was receiving benefit payments. In addition, she also seems to be receiving payments with her business referenced on it suggesting these may have been payments from customers. Miss A has told me what her profits were over the months leading up to the third increase, but she hasn’t provided context about how these figures were calculated. And the payments referenced as income/wages don’t seem to fully match up with this. However, even if I accept the figures she’s quoted are accurate, I’m still not clear what her regular expenditure is. So in the round I can’t say what proportionate checks would have most likely shown.

So, to summarise I think Aqua completed proportionate checks in relation to granting the initial credit card limit. However, whilst I don’t think it did for the subsequent limit increases, I don’t have clear enough information about Miss A’s circumstances in the time leading up to any of these increases. So, I can’t conclude that proportionate checks would have most likely shown the limit increases were unaffordable. Particularly as I think her financial difficulties and problems repaying debt seem to have come after this time. And as explained in my provisional decision, I think once Miss A did start struggling, Aqua took steps to support Miss A.

My final decision

So for the reasons explained above, I don’t uphold Miss A’s complaint against NewDay trading as Aqua.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 21 February 2025.

Claire Lisle
Ombudsman