

## **The complaint**

Mrs J 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**

Mrs J applied for a credit card with Aqua in May 2022. In the application Mrs J said she was employed with an income of £24,000 a year that Aqua calculated left her with £1,733 after deductions each month. Aqua carried out a credit search and found Mrs J owed around £1,100 to other lenders and was making monthly repayments of around £71. Aqua applied an estimate of Mrs J's rent of £470 and general living expenses of £439 a month. Aqua deducted the outgoings from Mrs J's income and says she had around £720 left as a disposable income each month. Aqua approved Mrs J's application and issued a credit card with a limit of £900.

Aqua increased Mrs J's credit limit to £1,650 in October 2022, £2,250 in March 2023 and £3,500 in June 2023. Aqua says that before each credit limit increase it looked at Mrs J's previous payments, checked her credit file and assessed her income and outgoings based on the data available.

Last year, Mrs J complained that Aqua lent irresponsibly and it issued a final response on 4 July 2024. Aqua said it had carried out the relevant lending checks before approving Mrs J's application and increasing the credit limit and that repayments appeared affordable. Aqua didn't uphold Mrs J's complaint.

An investigator at this service looked at Mrs J's complaint. The investigator thought Aqua's initial decision to lend was reasonable based on what it knew about Mrs J from the application and didn't agree it lent irresponsibly. The investigator thought there were reasons for Aqua to carry out more comprehensive assessments before increasing Mrs J's credit limit and looked at her bank statements for the preceding months. But the investigator thought Mrs J's bank statements showed she was able to sustainably afford repayments to increased credit limits, up to £3,500, and didn't uphold her complaint.

Mrs J asked to appeal and said she agreed the original decision to approve her credit card with a limit of £900 was reasonable. But Mrs J said she never asked Aqua to increase her credit limit. Mrs J also said had no money left in her bank account after meeting her outgoings each month and that she was single so had to cover all her expenses during the period Aqua increased the credit limit. As Mrs J asked to appeal, her 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 J 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.

When Mrs J applied to Aqua she provided details of her circumstances, including her income of £24,000. Aqua says that would've left Mrs J with around £1,733 after deductions, although I understand Mrs J was earning around £100 less than that each month. Aqua used nationally recognised statistics to estimate Mrs J's outgoings for normal living expenses of £439 and rent of £470 a month. I can see Aqua also carried out a credit search and found no evidence of recent arrears or financial difficulties. Aqua noted Mrs J had a default that was around 38 months old at the time of her application but no other adverse credit was found. When Aqua applied the outgoings it calculated for Mrs J against her monthly income it found she had around £720 available as an estimated disposable income and says that was sufficient for her to sustainably afford repayments to a new credit card. In my view, Aqua carried out reasonable and proportionate checks during the application process and its decision to approve Mrs J's application with a credit limit of £900 was reasonable based on the information it obtained. I haven't been persuaded Aqua lent irresponsibly.

I note that Aqua applied a late payment fee in the three months before the credit limit was increased to £1,650 in October 2022. Whilst I can see Aqua attempted to verify Mrs J's income via the credit reference agencies and continued to apply outgoings to it to get an estimated disposable income figure, I think it would've been reasonable to have carried out a more comprehensive set of checks. One option Aqua had available was to review Mrs J's bank statements for the preceding months to get a more accurate picture of her circumstances which is what I've done.

As Mrs J confirmed to the investigator, her take home pay was lower than the £1,733 figure Aqua used. I found Mrs J earned an average of £1,635 after deductions in the months before her application was made. I looked at Mrs J's outgoings for her existing credit commitments as well as other essential spending on items like rent, council tax and insurances. I've included payments Mrs J made that exceeded the minimum payments to her credit card in this figure. On average, Mrs J's committed regular outgoings came to around £1,340. So, on average, Mrs J had around £295 a month available once her outgoings were met. I understand Mrs J still needed to cover the cost of items like food and transport, but looking at her bank statement I didn't see any signs she was struggling financially. Mrs J wasn't using an overdraft facility and there is no evidence of returned payments. I've considered everything Mrs J's said in response to the investigator, but I haven't been persuaded Aqua lent irresponsibly. In my view, if Aqua had carried out better checks, like looking at Mrs J's bank statements, it's more likely than not that it would've still decided to approve an additional £750 and increased the credit limit to £1,850.

I've gone on to review Mrs J's bank statements for the three months before Aqua increased her credit limit to £2,250 in March 2023. Mrs J's average income had increased a little to

£1,660 and her average outgoings came to around £1,230. That left Mrs J with around £420 available a month after her regular outgoings and commitments were met. Again, I can see Mrs J had made some payments towards her credit card that were higher than the minimum payment due. There were no late payment or overlimit fees applied to Mrs J's account by Aqua and by this time, I think it's fair to say she'd built up a good track record of repayments with Aqua. Having reviewed Mrs J's bank statements, there's no obvious signs of financial difficulty or being overcommitted with all payments being made and no use of an overdraft. I'm sorry to disappoint Mrs J but, in my view, her bank statements indicate she had a reasonable level of income available each month after covering her existing outgoings that was sufficient to sustainably manage an increase to her credit limit of £600 taking it to £2,250. In my view, if Aqua had looked at Mrs J's bank statements it more likely than not that it would've still approved a credit limit increase to £2,250. I'm sorry to disappoint Mrs J but I haven't been persuaded Aqua lent irresponsibly.

I've followed the same approach by reviewing Mrs J's bank statements for the three months before the credit limit increase to £3,500 in June 2023. Mrs J's average income was around £1,670 and her average outgoings were around £1,245. That meant Mrs J had around £425 left after meeting her regular outgoings and commitments. In my view, Mrs J's bank statements don't show she was struggling financially or unable to meet her existing commitments each month. Aqua's made the point Mrs J's repayments were all made on time with a significant number being well over the minimum payment due and that she'd continued to build on a good track record. Again, I think it's more likely than not that if Aqua had checked Mrs J's bank statements it would've still approved the credit limit increase of £1,250 taking it to £3,500. I'm very sorry to disappoint Mrs J but I haven't been persuaded Aqua lent irresponsibly.

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, for the reasons I've already given, I don't think Aqua lent irresponsibly to Mrs J or otherwise treated her unfairly. I haven't seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

### **My final decision**

My decision is that I don't uphold Mrs J's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 10 February 2025.

Marco Manente  
**Ombudsman**