

The complaint

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

What happened

Mr F applied for a credit card with Aqua in January 2018. In his application, Mr F said he was employed with an income of £18,000 a year that Aqua calculated left him with £1,265 a month after deductions. Aqua carried out a credit search and says Mr F was making monthly repayments of £107 towards his existing debts. Aqua found a default that was around two years old and there were no recent missed payments noted on Mr F's credit file. Aqua also applied general living expenses of £420 and rent of £222 a month to Mr F's application. When Aqua applied its lending criteria it says Mr F had an estimated monthly disposable income of £500. Aqua approved a credit card with a limit of £900.

Aqua increased the credit limit to £1,800 in June 2018, £2,550 in October 2018 and £3,300 in February 2019.

Last year, representatives acting on Mr F's behalf complained that Aqua lent irresponsibly and it issued a final response. Aqua said it had carried out the relevant lending checks before approving Mr F's credit card application and increasing the credit limit and didn't agree it lent irresponsibly. Aqua didn't uphold Mr F's complaint.

An investigator at this service looked at Mr F's complaint and upheld it. They weren't persuaded that Aqua lent irresponsibly when approving Mr F's application or increasing the credit limit to £1,800. But the investigator noted that Aqua's lending data suggested he had a negative disposable income of -£324 a month in September 2018, the month before the credit limit was increased to £2,250. The investigator asked Aqua to refund all interest, fees and charges applied to Mr F's credit card on balances over £1,800 from October 2018 onwards. The investigator gave Aqua a total of four weeks to respond to their view of Mr F's complaint. The investigator then contacted both parties to confirm Mr F's case would be referred for appeal, providing a further two weeks for both to comment. No response was received from Aqua. Mr F's representatives have confirmed he's willing to proceed in line with the investigator's recommendations. As no response was received from Aqua, Mr F'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 Mr F 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.

In this case, when Mr F applied he said he was employed with an income of £18,000 a year. Aqua calculated Mr F's take home pay as £1,265 and then applied estimates for his general living expenses of £420 and rent of £222 a month. Aqua also looked at Mr F's credit file and found no evidence of adverse credit or recent arrears. I can see Aqua found Mr F had a default from two years before but I'm satisfied his recent credit history was well maintained and haven't seen anything that would've caused concern to Aqua. Aqua found Mr F was making monthly repayments of £107 to his existing debts. Overall, Aqua estimated Mr F had an estimated disposable income of £500 a month. I haven't seen anything that would've indicated to Aqua that Mr F wasn't in a position to sustainably afford repayments to a new credit card with a limit of £900 a month. In my view, the level and nature of checks Aqua completed were reasonable and proportionate to the amount and type of credit Mr F applied for. I haven't been persuaded Aqua lent irresponsibly when approving Mr F's application.

Mr F's credit limit was increased to £1,800 in June 2018. I can see Aqua continued to monitor Mr F's credit file and found his debts were being met each month with no new missed payments or other adverse credit. I think it's fair to say the information Aqua originally obtained when Mr F applied was reasonably current at this point. Mr F's Aqua payments had all been made on time with no late or overlimit fees applied. Overall, I'm satisfied the checks Aqua completed were reasonable and proportionate to the credit limit increase from £900 to £1,800 in June 2018. And I'm satisfied the information Aqua obtained indicated the credit limit increase was affordable for Mr F. I haven't been persuaded Aqua lent irresponsibly when it increased Mr F's credit limit to £1,800 in June 2018.

One of the checks Aqua uses when considering whether to lend is to verify a borrower's monthly income based on information obtained from the credit file which looks at their current account turnover. In September 2018, Aqua found Mr F's income had reduced from £1,265 to £662. When Aqua applied an estimated rent of £183, general living expenses of £385 (both down from the original application) and credit commitments of £418 (an increase of over £300 from the original application) it found Mr F was spending around £324 more than he was earning each month.

In my view, it wasn't reasonable to increase Mr F's credit limit to £2,250 in October 2018 given the information Aqua found clearly showed it wasn't affordable. I'm satisfied the information available to Aqua showed further borrowing wasn't sustainable to Mr F and should've caused it to decline to lend further. I'm satisfied that Aqua lent irresponsibly when it increased Mr F's credit limit to £2,250 in October 2018.

It follows that if I think the decision to increase Mr F's credit limit to £2,250 in October 2018 was irresponsible I think the same about the following credit limit increase to £3,300. By this point, Mr F's unsecured debts had increased to around £16,000 and his income was assessed at around £1,050 a month. I haven't seen anything that shows the credit card became more affordable to Mr F over time or persuades me it was reasonable for Aqua to increase the credit limit again.

Having considered all the available information and evidence, and for the reasons I've noted above, I'm satisfied Aqua lent irresponsibly when it increased Mr F's credit limit to £2,250 in October 2018 and £3,300 in February 2019. As a result, I'm upholding Mr F's complaint and directing Aqua to refund all interest, fees and charges applied to Mr F's balances over £1,800 from October 2018 onwards.

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 Mr F in the circumstances of his 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 Mr F'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 to balances above £1,800 after 15 October 2018 – the date the limit increase was applied.
- If the rework results in a credit balance, this should be refunded to Mr F 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 recorded after 15 October 2018 regarding this account from Mr F's credit file.
- Or, if after the rework the outstanding balance still exceeds £1,800, NewDay should arrange an affordable repayment plan with Mr F for the remaining amount. Once Mr F has cleared the outstanding balance, any adverse information recorded after 15 October 2018 in relation to the account should be removed from his credit file.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. They must give Mr F a certificate showing how much tax has been taken off if he asks for one. If NewDay intends to apply the refund to reduce an outstanding balance, they must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 24 February 2025.

Marco Manente

Ombudsman