

The complaint

Miss M complains that NewDay Ltd trading as Aqua irresponsibly lent her money on a credit card.

What happened

In March 2019, Miss M applied for a card with Aqua, and was offered an initial credit limit of £450. Aqua subsequently increased the credit limit on three occasions:

- August 2019 – to £1,250
- January 2020 – to £1,950
- August 2020 – to £2,000

In 2024, with the help of a representative, Miss M complained that the card had been irresponsibly lent. She said that Aqua hadn't properly checked whether she could afford it, or afford the increased limits.

Aqua said it had lent responsibly. It said that it took into account Miss M's circumstances. It lends to customers who don't always have good credit histories, and it offers a small credit limit to begin with, with later increases if the account is well managed. It says it checked affordability before the initial lending and before the increases. It considered what Miss M said in her application, her credit file and – for the later increases – how the account had been managed.

Aqua said that at the time of the initial application, Miss M said she had an annual income of £13,000. She hadn't missed any payments on other credit and there were no other concerns on her credit file. At the time of the limit increases, again there were no concerns on her credit file and the account had been well managed, with no missed payments or significant cash advances. It offered Miss M the increases and she didn't opt out.

However, when the complaint came to us, Aqua said it had reviewed things again and now agreed that it shouldn't have offered the third increase, so it would now agree to remove all interest and charges on balances above £1,950.

Our investigator thought that Aqua had acted fairly in granting the original lending, but that it shouldn't have offered the earlier increases either. So he said the complaint should be upheld. Miss M's representative accepted that, but Aqua didn't respond, so the complaint comes to me for a final 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.

When deciding whether to lend, Aqua was required to consider whether the lending would be affordable and sustainable for Miss M. There's no set list of checks it must carry out, but it must carry out checks which are proportionate in the circumstances – taking account of

factors such as the nature and amount of the credit, the amount of any repayments, Miss M's circumstances, and so on.

At the time of the initial lending application, Miss M said that her income was £13,000 per year – which is around £975 per month. It checked her income and credit commitments through a credit reference check. And it used modelled expenditure information, as it is entitled to do. It found that Miss M had other credit commitments amounting to around £29 per month, and assessed housing costs and essential expenditure at around £600 per month. On that basis, it concluded that the lending was affordable.

I'm satisfied that Aqua carried out proportionate checks, bearing in mind the low initial credit limit. And, having done so, I think it made a fair decision that the initial credit limit was affordable for Miss M.

In August 2019, Aqua reviewed the credit limit and offered Miss M an increase from £450 to £1,250. I'm not satisfied that this was responsible.

In considering credit limit increases, Aqua says that it looks at the conduct of the account as well as affordability and other credit commitments.

The first limit increase took place less than six months after Miss M took out the card. In that time, her statement balance was over the credit limit in two months, falling to £420 at the time of the increase. She had been charged two fees for being over the limit, and another two fees for making a late payment. I'm not therefore persuaded that, in the short time since it was taken out, there was evidence that Miss M was managing the existing credit well.

At the time of the limit increase, Aqua reviewed the affordability data it had. It was only able to verify income of £359 per month at that time, suggesting Miss M had a negative disposable income. There's no evidence it did further checks to confirm whether this was accurate.

I'm therefore satisfied that it wasn't responsible to have increased the credit limit in August 2019.

In January 2020, Aqua increased the limit again, to £1,950. I'm not persuaded this was fair either. It was only four months since the last increase, and in that time Miss M's balance had increased to almost the new limit, while only paying off small amounts each month. In the brief time since August 2019, Miss M had been charged two more late payment fees and another over limit fee. So again, I'm not persuaded that there was evidence that she was managing the account well. I've not seen evidence of a fresh affordability check at this time. Overall, I'm not persuaded that a further increase to the limit was responsible.

There was a final limit increase in August 2020. Aqua accepts that this should not have happened.

I've also thought about whether it could be said there was an unfair relationship between Miss M and Aqua, pursuant to s140A Consumer Credit Act 1974. But as Aqua no longer owns the account, that's not a relevant consideration here.

For all those reasons, I uphold this complaint. I don't think the initial offer of a card was unreasonable but, acting fairly, Aqua should not have subsequently increased the credit limit.

Putting things right

To put things right, Aqua should:

- Rework the account to remove all interest fees and charges applied to balances above £450 from August 2019 to date.
- If that results in a credit balance, the credit balance should be refunded to Miss M, adding simple annual interest of 8% from the date of each overpayment forming part of the credit balance to date of refund. Aqua may deduct income tax from the 8% interest element, but should tell Miss M what it has deducted so she can reclaim the tax if she's entitled to do so.
- If that results in a continuing debit balance, arrange an affordable repayment plan for the remaining balance.
- Remove any adverse information reported to Miss M's credit file.

Shortly after the final limit increase, Miss M stopped making payments. The card was defaulted and sold on to a third party. Aqua will therefore need to liaise with the third party debt owner to give effect to the redress above – either by buying it back, or by making arrangements with the third party.

My final decision

My final decision is that I uphold this complaint and direct NewDay Ltd trading as Aqua to put matters right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 2 April 2025.

Simon Pugh
Ombudsman