

The complaint

Mr B complains NewDay Ltd trading as Aqua irresponsibly lent to him.

What happened

Mr B was approved for an Aqua credit card in April 2022 with a £1,200 credit limit. The credit limit was increased to £1,700 in April 2023. Mr B says that the credit limit increase was irresponsibly lent to him. Mr B made a complaint to Aqua.

Aqua did not uphold Mr B's complaint. They said they made fair lending decisions. Mr B brought his complaint to our service. He made it clear he was complaining about the credit limit increase only, and not the initial lending decision.

Our investigator did not uphold Mr B's complaint. He said Aqua's checks were proportionate, and they made a fair lending decision to increase Mr B's credit limit. Mr B asked for an ombudsman to review the complaint.

Mr B made a number of points. In summary, he said Aqua's decision to increase his credit limit was based on incomplete and outdated affordability assessments that failed to account for his changed financial circumstances, such as losing his income. He said the credit limit increase had resulted in significant financial harm and emotional distress, exacerbating an already difficult situation.

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.

Firstly, I'm aware that I've only summarised Mr B's complaint points. And I'm not going to respond to every single point made by him. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

I'd also like to thank Mr B for telling us detailed information about his health. I won't go into great detail in this decision about what Mr B has told us to help protect his identity, but I can assure him that I've read everything that he's told us.

Before agreeing to increase the credit available to Mr B, Aqua needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Aqua have done and whether I'm persuaded these checks were proportionate.

Mr B has been clear that he is complaining about the credit limit increase only, and not the initial lending decision. So this decision will only consider the checks Aqua completed just prior to the credit limit increase to £1,700.

I've looked at what checks Aqua said they did when increasing Mr B's credit limit. Aqua said they looked at information provided by Credit Reference Agencies (CRA's) and they were able to see how Mr B managed his Aqua account prior to the credit limit increase.

I'd like to explain to Mr B that it is not within this service's remit to tell a business how they should complete their checks, and what they should use to complete the checks (for example insisting that they use open banking to view statements prior to a credit limit increase or verifying information with a borrower). It would be the role of the regulator – the Financial Conduct Authority, who have the power to instruct Aqua to make changes to their policies and procedures, if necessary.

I've noted the strength of feeling that Mr B has that Aqua have used outdated information. But I'm not persuaded by this argument. I say this because they would be entitled to rely on data from a CRA. Although it can take 4-6 weeks for a credit file to update, they did obtain information from what the CRA's were reporting in April 2023, when the credit limit was increased.

Aqua used Current Account Turnover (CATO) which is an industry standard measure of a borrowers income. The CRA reported that Mr B's CATO was £1,331 a month. So I'm not persuaded that it would be proportionate for Aqua to seek to verify this income based on this being consistent with the account opening checks.

They also used information from the CRA and modelling to estimate Mr B's expenditure. Again, this is an industry standard way of assessing a borrowers disposable income. The CRA reported Mr B's monthly credit commitments which Aqua could build into their affordability assessment, and I'm not persuaded that this data was outdated as the affordability assessment was completed in April 2023, the month the credit limit was increased. The assessment showed that the repayments for a credit limit increase would be able to be affordable and sustainable for Mr B.

I've looked at what other data Aqua had available to them as part of this lending decision. Aqua would have been able to see how Mr B managed his account since it was opened. The data showed that Mr B had incurred three late fees, and three overlimit fees since his account had been opened (often incurring the late fee and overlimit fee in the same month). I can also see he had been in arrears on an account by two months since Aqua completed their initial lending checks.

So these things could be signs of financial difficulty. Or they could have been poor account management. It doesn't appear that Mr B had financial difficulty with his Aqua account as the month after he incurred the late payment fee, on all occasions he paid a lot more than the minimum required repayment. So I wouldn't expect Mr B to be able to do this if he was struggling financially.

The CRA reported that although Mr B had been two months in arrears on account, he brought this account up to date in the following month after the two months arrears were showing.

The information showed that Mr B incurred no late/overlimit fees/arrears on any accounts on the February-April 2023 checks they completed. So it would appear to Aqua that any financial difficulties that Mr B may have had (if they weren't an oversight) weren't recent.

A CRA reported that Mr B had unsecured debt of £3,849 at the time of the checks as part of this lending decision. So based on the CATO data which Aqua used to assess Mr B's net monthly income, his annual net income would be assessed as £15,972. So the £3,849 unsecured debt would represent a debt to annual net income of just under a quarter of his annual income. The £500 credit limit increase would represent slightly over 3% of the assessed annual net income at the time the checks were completed. So it wouldn't appear that Mr B was overindebted at the time the checks were completed.

Mr B often made repayments to his Aqua account which were a lot higher than his minimum repayment. So I wouldn't expect him to be able to do this if he was struggling financially prior to the checks being completed.

So I'm persuaded that the checks Aqua completed were proportionate, and it would not have been proportionate for them to make further checks here. I'm persuaded that Aqua made a fair lending decision to increase the credit limit to £1,700.

I've considered what Mr B has said about him losing his income prior to the credit limit increase. I can empathise with the impact this would have had on him. But I need to be fair to both sides as my role is impartial. So Aqua would have no way of knowing Mr B had lost his income shortly before the credit limit was increased. And the information from the checks would have given no signs that Mr B's income had just been lost. So without Mr B telling them this, I can't hold them responsible for Mr B not informing them about a change of his circumstances.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that Aqua lent irresponsibly to Mr B or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here. So it follows I don't require Aqua to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 31 March 2025.

Gregory Sloanes
Ombudsman