

The complaint

Mr P 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 P applied for a credit card with Aqua in June 2021. In his application, Mr P said he was employed with an income of £55,000 a year that Aqua calculated left him with around £3,538 a month. Aqua says it used a service provided by the credit reference agencies that looks at current account turnover to verify Mr P's income. Aqua applied estimates for Mr P's rent of £337 and everyday living expenses of £513. Aqua also carried out a credit search and found Mr P owed around £3,900 to other lenders with monthly repayments totalling around £449. Aqua applied its lending criteria and says that once Mr P's existing commitments were met he had around £2,215 available as an estimated disposable income. Aqua approved Mr P's application and issued a credit card with a limit of £600.

Aqua increase Mr P's credit limit to £1,350 in November 2021, £2,350 in April 2022, £3,100 in July 2022 and £3,950 in November 2022. Mr P used the credit card and during 2023 he contacted Aqua to ask for assistance with repayments. Aqua approved a payment break and says a payment plan was later agreed with Mr P.

Last year, Mr P complained that Aqua had lent irresponsibly and it issued a final response. Aqua said it had carried out the relevant lending checks before approving Mr P's application and increasing the credit limit and didn't agree it lent irresponsibly. Aqua also said that when Mr P had let it know he was struggling in 2023 it had offered assistance with repayments and didn't agree it had treated Mr P unfairly.

An investigator at this service looked at Mr P's complaint. They thought Aqua had carried out reasonable and proportionate lending checks before approving his application and later increasing the credit limit in stages. The investigator wasn't persuaded there were grounds for Aqua to have asked Mr P for additional evidence in support of his application or before increasing the credit limit. The investigator thought Aqua had lent responsibly and didn't uphold Mr P's complaint.

Mr P asked to appeal and sent in some bank statements showing his circumstances in the months before the credit limit increases were approved. The investigator looked at Mr P's bank statements but thought they showed the credit limit increases were all affordable. As Mr P asked to appeal, his 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 P 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 Mr P made his application he said he was employed with an income of £55,000 that Aqua calculated meant he was paid £3,538 a month. Mr P's income level was verified by Aqua via the credit reference agencies. As noted above, Aqua applied estimates for Mr P's rent and general living expenses, totalling £850 a month. That's an approach that Aqua is able to take under the rules when assessing affordability. Aqua's confirmed the figures were obtained from nationally recognised statistics and I'm satisfied that's a reasonable approach. Aqua also carried out a credit search. I note Aqua found Mr P had defaults that were at least two years old at the point of application. But Aqua's explained that some historic defaults aren't necessarily a barrier to lending and Mr P's were within its lending criteria. I can see no other evidence of missed payments, defaults or other adverse credit. Mr P owed around £3,900 at the time of his application and was making monthly repayments of about £449. Looking at Mr P's credit file, it's well maintained and I've not seen anything that would've indicated he was struggling.

When Aqua applied its lending criteria, it found Mr P had an estimated disposable income of around £2,215 a month. In my view, the level and nature of checks completed by Aqua was reasonable and proportionate to the credit card application Mr P made and limit of £600. I haven't seen anything that ought to have led Aqua to consider carrying out a more detailed look at Mr P's application or that it lent irresponsibly by approving it.

I can see that before Aqua increased Mr P's credit limit to £1,350 in November 2021 it looked at his account use, made updated estimates of his regular outgoings for rent and everyday spending and checked his credit file. Again, I'm satisfied the outgoings Aqua used were reasonable. And I can see that Mr P's credit file was largely the same as when he first applied. I note there was an overlimit fee in August 2021, but that appears to have been a temporary issue and Mr P reduced the outstanding balance from £637.12 to £229.28 by the following statement date. No new missed payments were noted on Mr P's credit file and there was no new adverse credit recorded either. Aqua used the credit reference agency service to get an idea of Mr P's income and a figure of £3,922 a month was returned. Aqua calculated Mr P had an estimated disposable income of £2,279 after meeting his existing outgoings and increased the credit limit to £1,350.

In response to the investigator, Mr P he'd lost his job shortly before the first credit limit increase. But I have to base my decision on the information available to Aqua at the time it increased Mr P's credit limit. And there's nothing in the information available that would've told Aqua Mr P was unemployed. His income appeared to be in line with the details included in the application and debts were all being maintained. I also think it's fair to note Mr P's estimated disposable income was reasonably large at £2,279 after meeting his existing outgoings. Aqua's told us that the first time Mr P contacted it to say he was struggling with payments and his circumstances had changed was around April 2023, when it agreed a

payment break. I've haven't seen anything that shows Mr P contacted Aqua to tell it he wasn't working before the first credit limit increase. In my view, Aqua carried out reasonable and proportionate checks before increasing Mr P's credit limit to £1,350 in November 2021. And I'm satisfied Aqua's decision to increase Mr P's credit limit to £1,350 was reasonable based on the information it had available.

When Aqua increased the credit limit to £2,350 in April 2022, Mr P's unsecured credit had increased to around £7,825 with monthly repayments of around £500. There were no recent missed payments or new adverse credit found. Aqua applied estimated outgoings totalling £1,039 for Mr P's rent and living expenses. Aqua also checked Mr P's current account turnover via the credit reference agencies and found his income had dropped to £2,903 which is the figure it used in its lending assessment. Mr P's estimated disposable income figure did go down, but it was still reasonably high at £1,366.

In response to the investigator, Mr P's explained his income was actually substantially lower than at around £2,100 and has provided bank statements as evidence. But, again, I need to consider whether this was something Aqua would've known about and that Mr P was earning less. As noted above, Mr P's current account turnover was checked to get a picture of his income at the time. In my view, that was a reasonable approach for Aqua to take. I'm sorry to disappoint Mr P but I'm satisfied Aqua carried out lending checks that were proportionate to the increase in his credit limit. I'm also satisfied the decision to increase Mr P's credit limit to £2,350 in April 2022 was reasonable based on the information Aqua obtained. I haven't been persuaded Aqua lent irresponsibly.

For the third credit limit increase, taking it to £3,100 in July 2022, Mr P's credit file was checked and showed he now owed around £9,484 with monthly repayments totalling £537. No new missed payments or other adverse credit was found. Estimates for Mr P's rent and living expenses totalling £1,016 were used by Aqua which appears reasonable to me. And Aqua obtained an income figure from the credit reference agencies for Mr P of £2,676 a month. Aqua says its lending assessment found Mr P had an estimated disposable income of £1,123 after meeting his existing outgoings which was more than sufficient to afford a credit limit increase of £1,000, taking it to £3,100. There were no obvious signs Mr P was struggling or overcommitted. And I think the information Aqua obtained strongly indicated Mr P had a healthy disposable income and was able to sustainably afford a credit limit increase to £3,100 in July 2022. I'm sorry to disappoint Mr P but I haven't been persuaded Aqua lent irresponsibly.

The final credit limit increase took it to £3,950 in November 2022. In much the same way as previous credit limit increases, Aqua made estimates for Mr P's rent and cost of living and checked his credit file to look at his other borrowing. No new missed payments or adverse credit were found on Mr P's credit file. Mr P's outstanding credit had increased to around £11,200 with monthly repayments of around £750. But Mr P's income also appeared to have increased somewhat with a figure of £3,576 being returned by the credit reference agencies. After making the necessary deductions from Mr P's income, Aqua says he had an estimated disposable income of £1,645 after meeting his regular outgoings. Ultimately, the information available indicated Mr P had a reasonably high income, that his existing commitments were all well maintained and that his disposable income was more than sufficient to cover an increase of £850 to his existing credit limit, taking it to £3,950.

I'm very sorry to disappoint Mr P but I'm satisfied Aqua completed reasonable and proportionate checks before increasing his credit limit in November 2022. And I'm satisfied its decision to proceed based on the information it obtained was reasonable. I haven't found grounds to say Aqua should've gone further before increasing Mr P's credit limit or that it lent irresponsibly by doing so.

In response to the investigator, Mr P forwarded copies of his bank statements for the months before each credit limit increase. But, for the reasons noted above, I haven't been persuaded there were grounds to say Aqua needed to complete further checks, like asking Mr P for his bank statements, before lending.

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 Mr P or otherwise treated him 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.

I'm very sorry to disappoint Mr P but for the reasons I've given above I haven't been persuaded to uphold his complaint.

My final decision

My decision is that I don't uphold Mr P's complaint.

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

Marco Manente
Ombudsman