

The complaint

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

Mr B is represented by a solicitors firm in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Mr B himself.

What happened

Mr B was approved for an Aqua credit card in September 2013 with a £250 credit limit. I have detailed the credit limit changes below:

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|----------------|------------------|
| January 2014 | £250 to £500 |
| March 2015 | £500 to £1,000 |
| July 2015 | £1,000 to £1,750 |
| December 2015 | £1,750 to £2,650 |
| May 2016 | £2,650 to £3,450 |
| September 2016 | £3,450 to £4,500 |
| February 2017 | £4,500 to £5,850 |

Mr B made a complaint to Aqua, who did not uphold Mr B's complaint. They said they made fair lending decisions. Mr B brought his complaint to our service. Our investigator did not uphold Mr B's complaint. She said Aqua's checks were proportionate, and they made fair lending decisions.

Mr B asked for an ombudsman to review his complaint. He made a number of points. In summary, he said Aqua kept increasing his credit limit without appropriately considering his existing financial commitments. He said Aqua did not perform any further checks despite his unsecured debt rising year after year.

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.

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.

I've looked at what checks Aqua said they did when they approved Mr B's application. Aqua said they looked at information provided by Credit Reference Agencies (CRA's) and they considered information Mr B told them.

Mr B told Aqua he was earning a £15,000 gross annual income, which Aqua calculated to be around £1,103 a month. But Mr B had defaulted on at least one account previously, with the last default being registered 33 months prior to the application.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing. So I've looked at what Aqua's other checks showed to see if they made a fair lending decision here.

Aqua used information from the CRA and modelling to estimate Mr B's expenditure. This is an industry standard way of assessing a borrower's expenditure. The CRA reported Mr B's monthly credit commitments which Aqua could build into their affordability assessment, so I can't agree that Aqua didn't take into account Mr B's existing financial commitments. The assessment showed that the repayments for a credit limit of £250 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. Mr B was showing as having a debt to annual income ratio of 4.15%. So based on his declared gross annual income, this would equate to around £622.50 of unsecured debt. The new credit limit would be less than 2% of his declared gross annual income.

The CRA reported that Mr B was not in arrears on any of his active accounts at the time of the checks, and he hadn't been in arrears on any of his active accounts in the previous six months.

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 approve Mr B's application and give him a £250 credit limit.

January 2014 credit limit increase - £250 to £500

I've looked at what checks Aqua said they did when they increased Mr B's credit limit to £500. Aqua have said that due to the time that's passed, they have limited information regarding this. So I can't see what the checks from the CRA would have shown. Therefore I'm not able to say that the checks that were performed prior to the £500 credit limit being approved were proportionate or not, or whether a fair lending decision was made here.

There is data with how Mr B used his Aqua account from account opening though. Mr B incurred no late or overlimit fees on the account since it was opened. And while Mr B had cash advances on a couple of occasions which could be a sign of financial difficulty, I'm also mindful that it is a legitimate use of the account.

Ultimately, I simply do not have sufficient evidence to conclude that an unfair lending decision was made to increase the credit limit to £500 in January 2014.

March 2015 credit limit increase - £500 to £1,000

I've looked at what checks Aqua said they did when they increased Mr B's credit limit as part of this lending decision. Again, due to the time that's passed, Aqua have limited information regarding this.

But this time there is limited information from one of the CRA's. The CRA reported that Mr B had credit card balances of £1,203, which would be less than 10% of his originally declared annual income. The CRA showed that Mr B didn't have any arrears on his active accounts since the last lending decision.

Mr B incurred no late or overlimit fees on his Aqua account since it was opened. And while Mr B had again had cash advances on a couple of occasions which could be a sign of financial difficulty, I'm also mindful that it is a legitimate use of the account.

Based on the data available, I'm persuaded that Aqua's checks were fair here, and they made a fair lending decision to increase his credit limit here.

July 2015 credit limit increase - £1,000 to £1,750

I've looked at what checks Aqua said they did when they increased Mr B's credit limit as part of this lending decision. Again, due to the time that's passed, Aqua have limited information regarding this.

Again there is limited information from one of the CRA's. The CRA reported that Mr B had credit card balances of £1,647, which was not significantly higher than the last lending decision. The CRA again showed that Mr B didn't have any arrears on his active accounts since the last lending decision.

Mr B incurred no late or overlimit fees on his Aqua account since it was opened. And while Mr B had cash advances on a couple of occasions which could be a sign of financial difficulty, I'm also mindful that it is a legitimate use of the account.

Based on the data available, Mr B showed no clear indications of financial difficulty. So I'm persuaded that Aqua's checks were fair here, and they made a fair lending decision to increase his credit limit here.

December 2015 credit limit increase - £1,750 to £2,650

I've looked at what checks Aqua said they did when they increased Mr B's credit limit as part of this lending decision. Again, due to the time that's passed, Aqua have limited information regarding this.

Again there is limited information from one of the CRA's. The CRA reported that Mr B had credit card balances of £2,362, which was not significantly higher than the last lending decision considering his credit limit had been increased by £750. The CRA again showed that Mr B didn't have any arrears on his active accounts since the last lending decision.

Mr B incurred no late or overlimit fees on his Aqua account since it was opened. Mr B did not withdraw any cash since the last lending decision.

Based on the data available, Mr B showed no clear indications of financial difficulty. So I'm persuaded that Aqua's checks were fair here, and they made a fair lending decision to increase his credit limit here.

May 2016 credit limit increase - £2,650 to £3,450

I've looked at what checks Aqua said they did when they increased Mr B's credit limit as part of this lending decision. There is more information from the CRA's as part of this lending decision.

One of the CRA's reported Mr B's total active unsecured borrowings was showing as being £3,738 which would have been around a quarter of his originally declared gross annual income. The CRA showed that Mr B didn't have any arrears on his active accounts since the last lending decision.

Mr B incurred no late or overlimit fees on his Aqua account since it was opened. Mr B did not withdraw any cash since the last lending decision. And he was shown as having no payday loans at the time of these checks.

Based on the data available, Mr B showed no clear indications of financial difficulty. So I'm persuaded that Aqua's checks were fair, and they made a fair lending decision to increase his credit limit here.

September 2016 credit limit increase - £3,450 to £4,500

I've looked at what checks Aqua said they did when they increased Mr B's credit limit as part of this lending decision. One of the CRA's reported Mr B's total active unsecured borrowings was showing as being £4,257 which was not significantly higher than his Aqua credit card credit limit. The CRA showed that Mr B didn't have any arrears on his active accounts since the last lending decision.

Mr B incurred no late or overlimit fees on his Aqua account since it was opened. Mr B did not withdraw any cash since the last lending decision. And he was shown as having no payday loans at the time of these checks.

Based on the data available, Mr B showed no clear indications of financial difficulty. So I'm persuaded that Aqua's checks were fair, and they made a fair lending decision to increase his credit limit here.

February 2017 credit limit increase - £4,500 to £5,850

I've looked at what checks Aqua said they did when they increased Mr B's credit limit as part of this lending decision. One of the CRA's reported Mr B's total active unsecured borrowings was showing as being £5,786 which was not a significant increase since the last lending decision, especially considering his credit limit had been increased by £1,050. The CRA showed that Mr B didn't have any arrears on his active accounts since the last lending decision.

Mr B incurred no late or overlimit fees on his Aqua account since it was opened. Mr B did not withdraw any cash since the last lending decision. And he was showing as having no payday loans at the time of these checks. So I'm persuaded that Aqua's checks were fair here, and they made a fair lending decision to increase his credit limit here.

I've considered what Mr B has said about his debt increasing year after year. However, the increases were not significant, and Mr B showed no signs of being unable to repay his credit up to this lending decision, as he had not exceeded his credit limit, or missed a payment on his Aqua account since it was opened. The CRA reported no arrears on his active accounts up to this lending decision on the data they gave Aqua. So it wouldn't have been proportionate for them to have completed further checks.

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 25 April 2025.

Gregory Sloanes
Ombudsman