

## **The complaint**

Mr B complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved his credit card application.

## **What happened**

Mr B applied for an Aqua credit card in September 2022. In his application Mr B said he was employed with an annual income of £30,800 that Aqua calculated left him with £2,141 a month after deductions. A credit search found Mr B had a default that was 29 months old but no other adverse credit was found or recent missed payments. The credit search showed Mr B had outstanding debts totalling around £1,550 and was making monthly repayments of £99. Aqua also applied estimates for Mr B's housing cost and general living expenses totalling £790 a month to its affordability assessment. Aqua calculated Mr B had an estimated disposable income of £1,251 a month after meeting his existing outgoings and approved his application, issuing a credit card with a £1,200 limit.

Last year, representatives acting on Mr B'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 B's application and didn't agree it lent irresponsibly. Aqua didn't uphold Mr B's complaint.

An investigator at this service looked at Mr B's complaint. They thought Aqua completed reasonable and proportionate lending checks before approving Mr B's application and weren't persuaded it lent irresponsibly.

Mr B's representatives asked to appeal and said before applying to Aqua he was using an existing credit card to take cash advances. They also said Mr B had payday loans before opening his Aqua credit card. The investigator confirmed Mr B wasn't making payments towards the default shown on his credit file. In addition, the investigator accepted Mr B had taken some cash advances from a credit card in May and June 2022 but noted no other cash advances had been taken in the preceding 12 months. The investigator added that the payday loans Mr B had taken were already settled before he applied to Aqua. Mr B's representatives asked to appeal, so 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, the rules say Aqua had to complete reasonable and proportionate checks to ensure Mr B 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.

I've set out the information Aqua obtained when considering Mr B's application above. I can see Aqua asked Mr B about his income and applied estimates for his regular outgoings based on national statistics, in line with the rules it operates under. A credit search was also completed that showed Mr B owed around 5% of his income, or £1,550, in other unsecured debts and was making repayments of £99 a month. After applying its lending criteria, Aqua says Mr B had an estimated disposable income of £1,251 which was more than sufficient to sustainably afford repayments to a credit card with a limit of £1,200. On the face of it, the credit card appears affordable to Mr B.

In response to the investigator, Mr B's representatives made a number of points. I can see Mr B's full credit report shows he took several credit card cash advances in the months before his application. But I think the level of cash advances were reasonably modest and not at a level where I'd agree they showed Mr B was experiencing financial difficulties. Mr B's representatives also said he'd taken two payday loans in the two months before his application was made with a lender I'll refer to as L. But those loans were recorded as "unsecured loans" on Mr B's credit file, not payday loans or "advances against income". So they wouldn't have appeared as payday loans on the credit file results Aqua obtained.

Mr B's credit file also shows he had various defaults. However, I note that all the defaults, except one, had been settled. And I'm satisfied Aqua was aware of Mr B's unsettled default and took it into account when applying its lending criteria.

Overall, I'm satisfied the level and nature of checks Aqua completed were reasonable and proportionate to the amount and type of credit it went on to approve. And I'm satisfied the decision to approve Mr B's application based on the information Aqua obtained was reasonable. I'm very sorry to disappoint Mr B but I haven't been persuaded that Aqua lent irresponsibly or treated him unfairly by approving his credit card application.

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 B 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.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 July 2025.

Marco Manente  
**Ombudsman**

