

The complaint

Miss J complains NewDay Ltd trading as Aqua irresponsibly lent to her.

What happened

Miss J was approved for an Aqua credit card in May 2020 with a £250 credit limit. I have detailed the credit limit increases below:

October 2020	£250 to £1,250
October 2021	£1,250 to £3,000
March 2022	£3,000 to £4,500
June 2022	£4,500 to £6,000

Miss J says that Aqua irresponsibly lent to her, and she made a complaint to them. Aqua did not uphold Miss J's complaint as they said they made fair lending decisions. Miss J brought her complaint to our service.

Our investigator did not uphold Miss J's complaint. She said Aqua made fair lending decisions, and that Aqua had assessed Miss J's income, and completed an affordability assessment.

Miss J asked for an ombudsman to review her complaint as she said the figures Aqua used to assess her income were incorrect, and she forwarded us her bank statements to evidence this.

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 approve or increase the credit available to Miss J, Aqua needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. 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.

Acceptance for the Aqua card

I've looked at what checks Aqua said they did when initially approving Miss J's application. I'll address the credit limit increases later on. Aqua said they looked at information provided by Credit Reference Agencies (CRA's) and information that Miss J had provided before approving her application.

The information shows that Miss J had declared a gross annual income of £7,608. The CRA reported that Miss J had not defaulted on any agreements, and she had no County Court Judgements (CCJ's).

The CRA Aqua used reported that Miss J had a debt to income ratio of 68.9%, which based on her declared gross annual income this would have equated to around £5,242. The CRA reported that Miss J was spending £130 a month on her credit commitments, which would have been slightly over 20% of her gross monthly income.

The CRA had reported that Miss J had not been in arrears on any of her accounts in the previous six months and she had no payday loans, or any arrangements to pay on any of her accounts. The £250 credit limit would equate to around just over 3% of her declared gross annual income.

So I'm satisfied that the checks Aqua carried out here, prior to approving the initial £250 credit limit were proportionate and that Aqua made a fair lending decision to approve Miss J's application for the Aqua account.

October 2020 credit limit increase - £250 to £1,250

I've looked at the information available to Aqua as part of this lending decision. Miss J's unsecured debt was lower than it was at the account opening stage, as it was showing as being £4,989 by one of the CRA's.

Aqua would have been able to see how Miss J managed her account prior to this lending decision. She incurred no overlimit or late fees prior to the checks for this lending decision. Miss J at times repaid a lot more than her minimum payment, but I also note that she often re-used most of this in the same month she had repaid it.

In the month prior to the checks for this lending decision, a CRA reported that Miss J had been in arrears on an account she held, so this could be a sign of financial difficulty, or it could have been an oversight from Miss J as she brought the account up to date the following month.

Aqua also completed an affordability exercise. They assessed Miss J's monthly net income to be £1,450. They assessed this using Current Account Turnover (CATO). While CATO is an industry standard way of assessing someone's income, Miss J had only four months earlier than these checks declared a gross annual income of £7,608, which would be a gross monthly income of £634.

So while I can't rule out a salary increase or a job change for Miss J in the months between her application for the Aqua account and this credit limit increase, I do think this should have prompted further checks due to the difference in monthly income that Miss J originally declared and what Aqua assessed as being more than double, especially given Miss J's recent arrears on an account and this credit limit increase being five times higher than the original opening limit.

There's no set way of how Aqua should have made further proportionate checks. One of the things they could have done was to contact Miss J to get an understanding of her financial situation. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Miss J has provided her bank statements leading up to this lending decision. It does appear as if she has received a pay rise leading up to this lending decision. I say this because her salary which credits her account at the end of May and June 2020 appears to be around

£634 a month, whilst the salary which credits her account in late July 2020 is £1,623, and in late August 2020 it's £1,498.

Miss J is not overdrawn on her bank account leading up to the credit limit increase, and her bank account appears to be well managed. So if Aqua had requested Miss J's bank account statements based on what their checks showed, then I'm persuaded they still would have increased her credit limit to £1,250, and they would have made a fair lending decision to do so.

October 2021 credit limit increase - £1,250 to £3,000

Miss J was showing as having unsecured debt of £1,023 at the time of these checks, which was substantially lower than the last lending decision checks a year earlier. She was not in arrears on any of her accounts at the time of the checks, and she hadn't been in arrears on any accounts since the last lending decision.

Miss J incurred no late or overlimit fees on her Aqua account since the last lending decision. Aqua completed another affordability assessment. While the assessed income was showing as £2,745 based on CATO and this was nearly double what it was at the last lending decision, and therefore possibly inaccurate (as Miss J has told us she didn't earn this much). I'm not persuaded that it would have been proportionate for Aqua to have completed further checks here, and I'll explain why.

The affordability assessment Aqua completed also used information from a CRA/modelling to estimate Miss J's outgoings. This was shown to be a total of £588 a month. So as this comfortably fell into what her income was showing on her statements at the last lending decision and coupled with the fact she had been able to drastically reduce her overall unsecured debt, and she had no arrears or mismanagement of her Aqua account, then it wouldn't have been proportionate for Aqua to make further checks here.

So I'm persuaded that Aqua made a fair lending decision to increase the credit limit to £3,000 and their checks were proportionate for this lending decision.

March 2022 credit limit increase - £3,000 to £4,500

A CRA reported that Miss J had unsecured debt of £2,659 at the time of the checks. This was higher than at the last lending decision, but it would not be a high amount of Miss J's gross annual income (based on what her statements showed at an earlier lending decision).

Miss J again had no arrears on any accounts since the last lending decision, and she didn't incur any overlimit fees on her Aqua account since the last lending decision. But she did incur a late fee on her Aqua account. But it appears this was an oversight as Miss J still paid repayments in each month since the last lending decision.

Aqua again assessed Miss J's income. This time it was £3,299 based on CATO. Again this was a lot higher than what Miss J's bank statements previously showed. But her estimated outgoings were £756 a month, so I'm not persuaded it would have been proportionate for Aqua to have made further checks here, considering she had no accounts in arrears at the time of the checks. So I'm persuaded that Aqua's checks were proportionate, and they made a fair lending decision here.

June 2022 credit limit increase - £4,500 to £6,000

One of the CRA's reported that Miss J had unsecured debt of £4,790 at the time of the checks. This was higher than at the last lending decision, but it would not be a high amount

of Miss J's gross annual income (based on what her statements showed at an earlier lending decision as it would be around 25% of her net annual income). The unsecured debt was also lower than it was at the account opening checks.

Miss J again had no arrears on any accounts since the last lending decision, and she didn't incur any overlimit fees on her Aqua account since the last lending decision. But she did incur a late fee on her Aqua account. But it appears this was an oversight as Miss J still made repayments in each month since the last lending decision. In the following month she also repaid £207.33, and she did not re-use any of her available credit that month.

Aqua again assessed Miss J's income. This time it was £3,052 based on CATO. Again this was a lot higher than what Miss J's bank statements previously showed, but lower than the last lending decision. But her estimated outgoings were £843 a month, which were higher than the previous lending decisions (which also included her higher debt repayments), so I'm not persuaded it would have been proportionate for Aqua to have made further checks here, considering she had no accounts in arrears at the time of the checks. So I'm persuaded that Aqua's checks were proportionate, and they made a fair lending decision here.

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 Miss J or otherwise treated her 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.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 25 June 2025.

Gregory Sloanes
Ombudsman