

The complaint

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

Mr S 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 S himself.

What happened

Mr S was approved for an Aqua credit card in November 2021 with a £450 credit limit. Mr S says that the credit was irresponsibly lent to him. Mr S made a complaint to Aqua.

Aqua did not uphold Mr S' complaint. They said they made a fair lending decision. Mr S brought his complaint to our service. Our investigator did not uphold Mr S' complaint. He said Aqua's checks were proportionate, and they made a fair lending decision to approve the initial credit limit.

Mr S asked for an ombudsman to review the complaint. Mr S made a number of points. In summary, he said he was unemployed when he applied for the account, and he didn't have a bank account. He said he was already overwhelmed with existing debt at the time he applied for the Aqua account. He said the income figure he gave Aqua may have been inaccurate particularly given his employment status.

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 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 approve the credit available to Mr S, 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.

Aqua said they looked at information provided by Credit Reference Agencies (CRA's) and information provided to them by Mr S. The information showed that Mr S had a public record such as a County Court Judgement (CCJ) registered 44 months prior to the application checks.

It may help to explain here that, while information like a CCJ on someone's credit file may

often mean they're not granted further credit – it doesn't automatically mean that a lender won't offer borrowing. So I've looked at what else Aqua's information showed them, to see if they made a fair lending decision to accept Mr S' application.

While there is no employment status showing on the checks Aqua provided to our service, if Mr S had told Aqua that he was unemployed, I wouldn't expect this factor alone to result in Aqua not providing Mr S with an account. Instead, I would expect them to be able to rely on information from Mr S and the CRA to see if it would be fair to approve a credit limit of £450.

Mr S declared a gross annual income of £24,000. While I note Mr S says he may have given Aqua an inaccurate figure, he has not told us an alternative figure for his gross annual income. It also wouldn't be clear why he would tell Aqua inaccurate information.

The CRA reported that Mr S had not defaulted on any active accounts, he had not had any arrears in the six months prior to the application checks, he had no payday loans or any arrangements on any existing active accounts. So I'm not persuaded it would have been proportionate for Aqua to doubt what Mr S told them his income was when there were no recent signs of any financial difficulty.

The CRA also reported that Mr S didn't have any active unsecured debt. So although Mr S has told our service he was overwhelmed by debt at the time of his application, Aqua would not be aware of this based on the information received by the CRA. So I could not hold Aqua responsible for any incorrect information a CRA gave them.

As it wouldn't be proportionate for Aqua to make further checks based on what Mr S and the CRA they used told them, then they wouldn't have asked for further evidence such as bank statements. So as the CRA didn't report that Mr S had or didn't have a bank account at the time of the checks, then Aqua would not be reasonably aware if Mr S didn't have a bank account at the time of the checks.

Aqua used modelling to estimate Mr S' expenditure. This is an industry standard way of assessing a borrower's outgoings. The assessment showed that the repayments for a £450 credit limit would be affordable and sustainable for Mr S.

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 a £450 credit limit.

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 S 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 S to accept or reject my decision before 18 June 2025.

Gregory Sloanes
Ombudsman