

The complaint

Mrs B complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved her credit card application and later increased the credit limit.

What happened

Mrs B applied for an Aqua credit card in March 2020. In her application, Mrs B said she was employed with an income of £11,224 that Aqua calculated left her with £841 a month. Aqua applied estimates for Mrs B's housing cost of £216 and general living expenses of £402 a month to the application. A credit search was completed that found defaults that were around 20 months old, but no other adverse credit or recent missed payments were found. Aqua found Mrs B was making monthly repayments of £103 to her existing creditors.

Aqua applied its lending criteria and calculated Mrs B had an estimated disposable income of £105 after meeting her existing commitments. Aqua approved Mrs B's application and issued a credit card with a limit of £1,200.

Aqua increased the credit limit as follows:

Event	Date	Limit
App	Mar-20	£1,200
CLI 1	Aug-20	£1,950
CLI 2	Dec-20	£3,450
CLI 3	Apr-21	£4,950
CLI 4	Aug-22	£6,450
CLI 5	Aug-22	£7,200
CLI 6	Aug-23	£8,000

Last year, Mrs B complained that Aqua lent irresponsibly and it issued a final response. Aqua said it had carried out the relevant lending checks before approving Mrs B's application and later increasing the credit limit and didn't agree it lent irresponsibly.

An investigator at this service looked at Mrs B's complaint and upheld it. They thought that the estimated disposable income figure of £105 that Aqua reached when looking at Mrs B's application was too low to sustainably afford a new credit card with a limit of £1,200 and have funds available to cover any unexpected or emergency expenses she may have had. The investigator asked Aqua to refund all interest, fees and charges applied to Mrs B's account from the date of approval.

Aqua didn't agree with the investigator and said that after Mrs B's account was opened she'd made some payments in excess of the contractual minimum. Aqua also said the first time Mrs B incurred a fee was over three years after the application was approved. As Aqua didn't agree with the investigator's view Mrs B's 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 Mrs 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 the figures and information Aqua used when considering Mrs B's application above. Aqua's confirmed it accepts applications from borrowers with some historic credit issues and I can see Mrs B had some defaults, the newest of which was 20 months old when she applied. I'm satisfied Aqua was aware of Mrs B's credit history.

Ultimately, Aqua took Mrs B's income and outgoings into account and reached the conclusion she had £105 left after covering her regular outgoings each month. I think it's fair to say the initial credit limit of £1,200 was reasonably high, especially when considering Mrs B had a monthly income of £841. And I agree with the investigator's view that a disposable income of £105 a month (before making repayments to the new credit card with a £1,200 limit) was very limited and meant Mrs B lacked capacity to cover any unexpected or emergency expenses that may've arisen. In my view, the information Aqua had available strongly indicated Mrs B was already at or over capacity in terms of her outgoings and that she was unlikely to be able to sustainably afford a new credit card with a limit of £1,200. I haven't been persuaded that Aqua lent responsibly when it approved Mrs B's credit card application in March 2020.

I've considered the credit limit increases Aqua went on to approve. I note that whilst Aqua says Mrs B managed her credit card well, her unsecured debt levels increased substantially over time. When Mrs B applied, she owed around £600 but by the time of the final credit limit increase in August 2023, Mrs B owed £10,697. Whilst I accept Mrs B didn't incur any fees in the first few years she held the credit card, the information available strongly indicates she was using credit to make ends meet and was borrowing at an increasing rate. Having considered the credit limit increases, I haven't been persuaded the credit card became more affordable for Mrs B over time.

As I haven't been persuaded Aqua lent responsibly, I'm upholding Mrs B's complaint and directing it to refund all interest, fees and charges applied from the date of approval.

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, I'm satisfied the redress I have directed below results

in fair compensation for Mrs B's complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

My decision is that I uphold Mrs B's complaint and direct NewDay Ltd trading as Aqua to settle as follows:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Mrs B along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. You should also remove all adverse information regarding this account from Mrs B's credit file.
- Or, if after the rework there is still an outstanding balance, you should arrange an affordable repayment plan with Mrs B for the remaining amount. Once Mrs B has cleared the balance, any adverse information in relation to the account should be removed from their credit file.

*HM Revenue & Customs requires you to deduct tax from any award of interest. You must give Mrs B a certificate showing how much tax has been taken off if she asks for one. If Aqua intends to apply the refund to reduce an outstanding balance, you must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 27 May 2025.

Marco Manente
Ombudsman