

## **The complaint**

Mr G complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved his credit card application and later increased the credit limit.

## **What happened**

Mr G applied for an Aqua credit card in November 2020. In his application, Mr G said he was employed with an annual income of £12,000 that Aqua calculated left him with £900 a month. Aqua applied estimates for Mr G's housing costs and general living expenses totalling £702 a month to the application. A credit search found Mr G owed around £2,000 and was making monthly repayments of £79. The credit search found no current adverse credit, defaults or recent missed payments but said Mr G had been made bankrupt in the previous three years. Aqua applied its lending criteria and says Mr G had an estimated disposable income of £114 a month after covering his existing outgoings. Aqua approved Mr G's application and issued a credit card with a £450 limit.

Mr G used his credit card and Aqua went on to increase the credit limit to £1,450 in April 2021, £2,700 in August 2021, £3,450 in November 2021 and £3,900 in April 2022. Aqua says that before each credit limit increase it looked at Mr G's account history, credit file and carried out affordability assessments to ensure repayments were affordable.

Last year, representatives acting on Mr G'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 G's application and increasing the credit limit and didn't agree it lent irresponsibly.

An investigator at this service upheld Mr G's complaint in part. They thought the decisions to approve Mr G's application and increase the credit limit in stages to £2,700 by August 2021 were reasonable based on the information Aqua obtained. But the investigator thought that by November 2021, when Aqua increased the credit limit to £3,450, it should've been clear Mr G lacked the capacity to sustainably afford further borrowing. As a result, the investigator asked Aqua to refund all interest, fees and charges applied to balances over £2,700 from November 2021.

Mr G's representatives responded to confirm he was willing to accept the investigator's recommendations but we didn't hear back from Aqua. As a result, Mr G'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 Mr G 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 used when considering Mr G's complaint above. I can see Aqua asked Mr G about his circumstances in the application and applied estimates for his regular outgoings when completing the affordability assessment. In addition, whilst I can see Mr G had a bankruptcy within the previous three years recorded on his credit file, the rest of the information was stable. No other adverse credit, defaults or recent missed payments were found. And Mr G owed a reasonably low amount of other unsecured credit at around £2,000 that was well maintained. In addition, the original credit limit was reasonably modest at £450 which reduced the potential for financial harm to Mr G.

Overall, I'm satisfied the level and nature of Aqua's checks 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 G's application with a credit limit of £450 was reasonable based on the information Aqua obtained. I haven't been persuaded Aqua lent irresponsibly when it approves Mr G's application in November 2020.

I'll deal with the first and second credit limit increases together as they both occurred within a four month period. I think it's fair to note Mr G's Aqua account was well maintained with no late or overlimit fees applied. I can see Mr G's other debts did increase, to around £5,800 in the month before the second credit limit increase in August 2021. But the credit file results show no evidence of recent arrears or other credit issues. In addition, I can see Aqua used a tool provided by the credit reference agencies to get a picture of Mr G's income in the months before both credit limit increases. On both occasions, they recorded income in excess of £1,200 a month which was an increase from when Mr G originally applied. On both occasions, Aqua calculated Mr G's disposable income was over £200 a month after meeting his existing outgoings.

I haven't seen anything in the information Aqua obtained that showed Mr G was struggling financially or unlikely to be able support increases to the credit limit. In my view, Aqua carried out proportionate lending checks and the decisions to proceed with the credit limit increases were reasonable based on the information it obtained. I haven't been persuaded Aqua lent irresponsibly.

Before Aqua increased the credit limit to £3,450 in November 2021 it carried out a new set of lending checks that ultimately reached the conclusion Mr G only had an estimated disposable income of £81 a month after meeting his regular outgoings and living expenses. I note Mr G's other debts had been increasing month on month and had reached over £7,500 in the month before the credit limit increase. In addition, the credit file results confirmed Mr G had a missed payment in the previous three months. In my view an estimated disposable income of £81 shows Mr G was either at or over capacity in terms his existing outgoings. And I'm not persuaded that £81 a month would've left Mr G with a sufficient buffer to be able

to afford any emergency or unexpected costs that may've arisen. Taken together with the credit file details Aqua obtained, I think the information available to Aqua should've caused it to decline to increase the credit limit to £3,450 in November 2021. As a result, I'm upholding Mr G's complaint and directing Aqua to refund all interest, fees and charges applied to balances over £2,700 from November 2021.

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 Mr G in the circumstances of his 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 Mr G'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 to balances above £2,700 after November 2021.
- If the rework results in a credit balance, this should be refunded to you along with 8% simple interest per year\* calculated from the date of each overpayment to the date of settlement. Aqua should also remove all adverse information recorded after November 2021 regarding this account from Mr G's credit file.
- Or, if after the rework the outstanding balance still exceeds £2,700, Aqua should arrange an affordable repayment plan with him for the remaining amount. Once he has cleared the outstanding balance, any adverse information recorded after November 2021 in relation to the account should be removed from Mr G's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 15 July 2025.

Marco Manente  
**Ombudsman**