

The complaint

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

What happened

Miss B was approved for an Aqua credit card in January 2020 with a £300 credit limit. I have detailed the credit limit increases below:

December 2020	£300 to £1,300
May 2021	£1,300 to £2,000
August 2021	£2,000 to £3,500

Miss B says that Aqua irresponsibly lent to her, and she made a complaint to them. Aqua did not uphold Miss B's complaint as they said they made fair lending decisions. Miss B brought her complaint to our service. Our investigator did not uphold Miss B's complaint. She said although Aqua should have made further checks for the last three lending decisions, they made fair lending decisions.

Miss B asked for an ombudsman to review her complaint. She made a number of points. In summary, she asked if the some of the checks weren't proportionate then how could Aqua have made fair lending decisions, especially as she had late payments, made minimum repayments, was close to or over her credit limit, and took cash advances.

Miss B said a portion of her disposable income was to service debts, each credit limit coincided with worse account behaviour, and therefore Aqua shouldn't have relied on modelling to estimate outgoings. She said Aqua had treated her unfairly with the lending, which has had an impact on her mental health.

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 Miss B's complaint points. And I'm not going to respond to every single point made by her. 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 or increase the credit available to Miss B, 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 B'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 B had provided before approving her application.

The information shows that Miss B had declared a gross annual income of £17,725. The CRA reported that Miss B had no County Court Judgements (CCJ's), but she had defaulted on an account 14 months prior to the checks.

It may help to explain here that, while information like a default 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 Miss B's application.

The CRA Aqua used reported that Miss B had a debt to income ratio of 42.62%, which based on her declared gross annual income this would have equated to around £7,544.

The CRA had reported that Miss B 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 £300 credit limit would equate to around 1.7% of her declared gross annual income.

Aqua completed an affordability assessment using a mixture of information from a CRA and modelling which is an industry standard way of assessing affordability. Aqua are not required to request bank statements for every lending decision as a matter of course, as this would not be proportionate.

The affordability assessment showed that Miss B should be able to sustainably afford repayments for a £300 credit limit.

So I'm satisfied that the checks Aqua carried out here, prior to approving the initial £300 credit limit were proportionate and that Aqua made a fair lending decision to approve Miss B's application for the Aqua account.

December 2020 credit limit increase - £300 to £1,300

I've looked at the information available to Aqua as part of this lending decision. Miss B's unsecured debt was a lot higher than at the account opening stage, as one of the CRA's reported it to be £16,826. A CRA also reported that Miss B had been one month in arrears on an external account in consecutive months since her Aqua account had been opened.

Aqua would have been able to see how Miss B managed her account prior to this lending decision. Miss B incurred cash advance fees. But while these types of transactions are usually a more expensive way to borrow, I need to be mindful that they are a legitimate feature of the account.

She incurred no overlimit or late fees prior to the checks for this lending decision. Miss B was showing as having no arrears on any external accounts since her Aqua account had been opened.

Miss B incurred a late fee, but it appears this was an oversight as I can see in the following month the fee was refunded. This would typically only happen if Miss B contacted Aqua to inform them the late payment was an oversight and ask for a refund. Miss B did make

payments exceeding her minimum repayment to the account on multiple occasions.

But based on the increase to the active unsecured debt, and the external arrears, I'm persuaded that Aqua should have completed further checks to ensure the lending was affordable and sustainable for Miss B.

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 B to ask her why her level of unsecured debt had increased, and why she had been in arrears on an external account. 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 B has provided her bank statements leading up to this lending decision. I note that Aqua offered the credit limit increase to Miss B on 3 December 2020, so it's unlikely that her December 2020 statement would have been produced prior to this date.

But on the statements I've looked at, Miss B's account is generally well run and it often has a three-figure credit balance. Miss B is not overdrawn on the account leading up to Aqua offering her a credit limit increase, and she has no returned direct debits leading up to this credit limit increase. Aqua would have been able to see Miss B making repayments to other lenders on her statements. It appears that the repayments for this credit limit increase would be affordable and sustainable for Miss B.

So if Aqua would have requested Miss B's bank statement as part of a proportionate check, then I'm persuaded that they still would have increased her credit limit to £1,300, and they would have made a fair lending decision here.

I've considered what Miss B has asked about if the checks weren't proportionate then how could Aqua have made a fair lending decision. But not making proportionate checks does not automatically mean further lending would be unaffordable. This is because I would consider what proportionate checks would have likely to have shown. And therefore I've set out above why I'm persuaded Aqua made a fair lending decision here.

May 2021 credit limit increase - £1,300 to £2,000

Miss B was showing as having unsecured debt of £16,302 at the time of these checks, which was lower than the last lending decision checks, which could suggest that not only Miss B was able to service her existing debt, but to also reduce this. So I'm not persuaded that Miss B's financial circumstances were worse at each lending decision.

Miss B was not in arrears on any of her active accounts at the time of the checks, and she hadn't been in arrears on any accounts since the last lending decision. I do note that Miss B incurred a late fee on her Aqua account, but this would appear to Aqua to be an oversight as Miss B made a repayment in each calendar month since the last lending decision.

There was one calendar month where Miss B made repayments totalling £222.20, which was nearly four times the minimum required repayment, which I wouldn't expect Miss B to be able to make if she was having financial difficulties at the time. Miss B incurred no overlimit fees on her Aqua account since the last lending decision.

So I'm persuaded that Aqua's checks were proportionate here, and they made a fair lending decision to increase the credit limit to £2,000.

August 2021 credit limit increase - £2,000 to £3,500

A CRA reported to Aqua that Miss B had active unsecured debt of £16,003 at the time of these checks, which again was lower than the last lending decision checks, which could suggest that not only Miss B was able to service her existing debt, but to also reduce this. So as I've mentioned before, I'm not persuaded that Miss B's financial circumstances were worse at each lending decision.

Miss B was not in arrears on any of her active accounts at the time of the checks, and she hadn't been in arrears on any accounts since the last lending decision. Again, Miss B incurred a late fee on her Aqua account, but this would appear to Aqua to be an oversight as Miss B made a repayment in each calendar month since the last lending decision.

There was one calendar month where Miss B made repayments totalling £132.83 (the month she incurred the late fee, when her minimum requested repayment was £80) and in another month after the credit limit was increased she paid a total of £197.75 which was more than double her requested minimum repayment, which again, I wouldn't expect Miss B to be able to make if she was having financial difficulties at the time. Miss B had no overlimit fees on her Aqua account since the last lending decision.

So I'm persuaded that Aqua's checks were proportionate here, and they made a fair lending decision to increase the credit limit to £3,500.

I've considered what Miss B has said about her mental health, and I'm truly sorry to hear this. Our investigator can provide her with organisations which may be able to assist her if she would like these details.

I can see that for the four months after the credit limit increase Miss B made repayments which were more than double her minimum repayment. It would appear that she had financial difficulty in May 2022, nearly a year after the last credit limit increase as I can see her external active borrowings grew to £35,067. But I'm not persuaded that this would have been foreseeable to Aqua as her overall active unsecured debt had fallen on the last two lending decisions.

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 B 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 B to accept or reject my decision before 27 August 2025.

Gregory Sloanes
Ombudsman