DRN-5574660

The complaint

Mr H complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved his credit card application.

What happened

Mr H applied for an Aqua credit card in January 2021. In his application, Mr H said he was earning £22,500 that Aqua calculated left him with £1,440 a month after deductions. Aqua carried out a credit search and found Mr H had a default that was 61 months old and had two missed payments in the previous six months. No other adverse credit, payday loans or payment arrangements were found on Mr H's credit file. Aqua also found Mr H owed around £3,900 in other unsecured debts and was making monthly repayments of £382. Aqua carried out an affordability assessment using estimates for Mr H's housing and living expenses totalling £686 a month. After applying its lending criteria, Aqua says Mr H had an estimated disposable income of £356 a month after covering his existing outgoings. Aqua approved Mr H's application and issued a credit card with a limit of £900.

Mr H used the credit card but it subsequently fell into arrears and was closed at default in June 2022.

Earlier this year, representatives acting on Mr H's behalf complained that Aqua lent irresponsibly and it issued a final response. Aqua said it had carried out the relevant lending checks and didn't agree it lent irresponsibly.

An investigator at this service looked at Mr H's complaint. They thought Aqua completed proportionate checks before agreeing to lend and that the decision to do so was reasonable based on the information it obtained. The investigator wasn't persuaded Aqua lent irresponsibly and didn't uphold Mr H's complaint. Mr H's representatives pointed out that his credit file showed missed payments in the previous six months which should've shown Aqua he was experiencing financial difficulties. As Mr H asked to appeal, his 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, the rules say Aqua had to complete reasonable and proportionate checks to ensure Mr H 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 that Aqua used when considering Mr H's application above. I can see Aqua asked Mr H about his income and made reasonable deductions for his regular outgoings when it completed its affordability assessment. The credit search found Mr H owed around £3,900 and was making monthly payments of £382 to his existing creditors and I'm satisfied that was also taken into account by Aqua when conducting its affordability assessment.

The credit search results showed Mr H had a default that was around five years old when he applied. I note the credit file results also showed two missed payments in the previous six months. I've thought about whether those issues should've caused Aqua to take a different approach with Mr H's application. But, I think it's fair to note Aqua says it's a second chance lender that is willing to accept a modest amount of adverse credit. I'm satisfied that the default was reasonably historic in nature. And whilst two missed payments in the previous six months were found, Mr H's commitments had been brought up to date at the point he applied to Aqua for a new credit card. I also think it's reasonable to say the credit limit of £900 was reasonably modest which reduced the potential for financial harm being caused.

Taking the above points and all the available information into account, I haven't been persuaded that Aqua failed to complete reasonable and proportionate checks before agreeing to lend. And I'm satisfied the decision to approve Mr H's application was reasonable based on the information that Aqua obtained. In my view, the information Aqua obtained showed Mr H was able to sustainably manage repayments to a credit card with a limit of £900. I'm very sorry to disappoint Mr H but I haven't been persuaded that Aqua lent irresponsibly.

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, for the reasons I've already given, I don't think Aqua lent irresponsibly to Mr H or otherwise treated him unfairly. I haven't seen anything to suggest that Section 140A or anything else would, given the facts of this complaint, lead to a different outcome here.

My final decision

My decision is that I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 26 September 2025.

Marco Manente
Ombudsman