

Complaint

Miss L has complained that NewDay Ltd (trading as “Aqua”) irresponsibly provided a credit card as well and the subsequent credit limit increases to her. She says that they were unaffordable and became unmanageable.

Background

Aqua initially provided Miss L with a credit card, which had a credit limit of £300, in November 2017. The credit limit on Miss L was subsequently increased, on eight separate occasions, at the following times:

July 2018 - £600
July 2021- £1,600.00
November 2021- £3,100.00
October 2022 - £4,150.00
February 2023 - £5,200.00
June 2023 - £6,400.00
October 2023 - £7,300.00
March 2024 - £8,000.00

One of our investigators reviewed what Miss L and Aqua had told us. And she hadn’t seen enough to be persuaded that proportionate checks would have shown Aqua that it shouldn’t have provided the credit card or subsequent credit limit increases. So she didn’t recommend that the complaint be upheld.

Miss L disagreed and asked for an ombudsman to look at her complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Miss L’s complaint.

Having carefully considered everything, I’ve not been persuaded to uphold Miss L’s complaint. I’d like to explain why in a little more detail.

I think that it would be helpful for me to start by explaining that we consider what a firm did to check whether any repayments to credit were affordable (asking it to evidence what it did) and then determine whether this was enough for the lender to have made a reasonable decision on whether to lend.

Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

That said, I think that it is important for me to explain that our website does not provide a set list of mandated checks that a lender is expected to carry out on every occasion – indeed the regulator's rules and guidance did not and still do not mandate a list of checks to be used. It simply sets out the types of things that a lender could do.

It is a for a lender to decide which checks it wishes to carry out, although we can form a view on whether we think what was done was proportionate to the extent it allowed the lender to reasonably understand whether the borrower could make their payments. Furthermore, if we don't think that the lender did enough to establish whether the repayments to an agreement was affordable, this doesn't on its own meant that a complaint should be upheld.

We would usually only go on to uphold a complaint in circumstances where we were able to recreate what reasonable and proportionate checks are likely to have shown – typically using information from the consumer – and this clearly shows that the repayments in question were unaffordable.

Aqua says it initially agreed to Miss L's application after it obtained information on her income and carried out a credit search. And the information it initially obtained indicated that Miss L would be able to make the monthly repayments due for this credit card. Due to Miss L's account being relatively well managed and the information on the credit checks it carried out, Miss L was then subsequently offered her credit limit increases.

On the other hand Miss L says that the card and increased credit limits were unmanageable and so she shouldn't have been lent to.

I've considered what the parties have said.

The decision to provide Miss L with a card and the first limit increase

What's important to note is that Miss L was provided with a revolving credit facility rather than a loan. This means that to start with Aqua was required to understand whether Miss L could repay £300 and £600 within a reasonable period of time. It's fair to say that the required monthly payments in order to clear the full amount that could be owed, as a result of credit limits of £300 and £600, within a reasonable period of time aren't especially high.

I've seen records of the information Aqua obtained from Miss L about her income and what was on the credit search carried out. The credit search showed that Miss L didn't have any recent significant adverse information at either of these times. Furthermore, the amount Miss L owed elsewhere was low.

In circumstances where Miss L's financial position appeared stable and bearing in mind the low monthly repayments required to clear balances of £300 and £600 within a reasonable period of time, I'm satisfied that Aqua was reasonably entitled to conclude that Miss L was in a position where she could afford the card and the first limit increase.

As this is the case, I'm satisfied that Aqua carried out reasonable and proportionate checks and the information showed that it wasn't unfair for Aqua to offer Miss L a credit card with a limit of £300 in November 2017, or increase her credit limit to £600 in August 2020.

The remaining seven credit limit increases

For the remaining credit limit increases, it appears as though Aqua relied on Miss L's account having been managed well since it had been opened. In the first instance I should make it clear that it isn't immediately apparent to me how it is automatically the case that a borrower can afford a higher amount of credit simply because they might not have defaulted on a lower amount.

It seems to me that this logic would suggest that credit limit increases should continue to be granted until after a customer has struggled to make repayments – even though the regulations require a lender to carry out reasonable enquiries to ensure that this doesn't happen in the first place.

In any event, Miss L's credit limit was being increased to amounts between £1,600.00 and £8,000.00. So while I accept that Miss L didn't have any adverse information recorded against her, I would nonetheless have expected Aqua to have found out more about Miss L's income and regular living expenses before providing these credit limit increases. After all, without such information it's unclear to me how Aqua could reasonably have believed that Miss L would be able to repay such amounts within a reasonable period of time. This is even if it may have been prepared to take the credit risk.

As Aqua has been unable to evidence having done this for either of these increases, I don't think that the checks it carried out before it increased Miss L's credit limit on the third to eighth occasions were reasonable and proportionate.

Where a firm failed to carry out reasonable and proportionate checks before providing credit or significantly increasing the amount available to a customer, I'd usually go on to recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown.

However, Miss L hasn't provided anything to show that her monthly living costs meant that she wasn't in position to be able to afford the repayments to this credit card. So I've not been provided with sufficient evidence to be able to ascertain that Aqua finding out more about Miss L's committed expenditure would have seen it reach a different outcome on lending to her.

It is only fair and reasonable for me to uphold a complaint in circumstances where I can see that any additional credit provided was unaffordable. It's very difficult for me to uphold a complaint on the basis of uncorroborated arguments regarding an individual's circumstances, where, for reasons I'll come on to explain further on, the activity on the account suggests the customer was able to afford the credit.

So I'm afraid that I've not been provided with sufficient evidence which demonstrates that Miss L was not able to make the increased monthly payments required should she owe the full amount of the new credit limits.

For the sake of completeness, I'm also mindful that these credit limit increases were offered over a period of more than six years. Most importantly, Miss L didn't immediately use all of the credit that was made available to her. For example when offered the final four limit increases she had a balance of just over £3,200.00 (against a limit of £4,150.00) when offered the February 2023 increase; a balance of £4,175.00 (against a limit of £5,200.00) when offered the June 2023 increase; a balance of just over £4,900.00 (against a limit of £6,400.00) when offered the October 2023 increase; and a balance of just under £5,200.00 (against a limit of £7,300.00) when she was offered the final increase.

So Miss L doesn't appear to have been immediately using all the credit being made available to her. I've also got to consider this against the backdrop that according to Aqua's credit checks Miss L's external indebtedness wasn't increasing exponentially either.

Therefore, this isn't a case where I can reasonably say that the limit increases and Miss L's account usage ought reasonably to have shown Aqua that Miss L's indebtedness, on her credit card, was rapidly increasing in an uncontrollable way, or that the pattern of lending here ought reasonably to have led Aqua to conclude that the facility had become demonstrably unsustainable for Miss L either.

So overall and having carefully considered everything and while I appreciate that this will disappoint Miss L, I've not been persuaded that proportionate checks would have shown Aqua that it shouldn't have provided the final seven credit limit increases it offered Miss L between July 2021 and March 2024 either.

Finally, I've noted what Miss L has said about contacting Aqua to say that she wasn't able to make the additional voluntary payments that were suggested on her statements. However, as these were voluntary payments that Miss L wasn't required to make at that stage, I don't think that this means that Aqua ought to have taken corrective action and defaulted her account. I think that Aqua taking such action in circumstances where Miss L was not in arrears on her credit card, would have been disproportionate bearing in mind the consequences.

In reaching my conclusions, I've also considered whether the lending relationship between Aqua and Miss L might have been unfair to Miss L under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I've not been persuaded that Aqua irresponsibly lent to Miss L or otherwise treated her unfairly. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

Overall and having considered everything, I don't think that Aqua treated Miss L unfairly or unreasonably either when providing her with her credit card or the limit increases. And I'm not upholding Miss L's complaint. I appreciate this will be very disappointing for Miss L. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

Although I'm not upholding Miss L's complaint, I would remind Aqua of its continuing obligation to exercise forbearance and due consideration, given what Miss L has said about having difficulty making her payments.

I would also encourage Miss L to get in contact with and co-operate with any steps that may be needed to review what she might, if anything, be able to repay going forward. Miss L may be able to complain to us – subject to any jurisdiction concerns – should she be unhappy with Aqua's actions in relation to exercising forbearance.

My final decision

For the reasons I've explained, I'm not upholding Miss L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 16 March 2026.

Jeshen Narayanan
Ombudsman