

The complaint

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

Miss W is represented by a claims management company in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Miss W herself.

What happened

Miss W was approved for an Aqua credit card in November 2015 with a credit limit of £300. I have detailed the credit limit changes below:

February 2017	£300 to £1,000
August 2017	£1,000 to £1,600
January 2018	£1,600 to £2,500
May 2018	£2,500 to £3,500
December 2018	£3,500 to £4,100
March 2020	£4,100 to £5,600

Miss W says that Aqua irresponsibly lent to her. Miss W made a complaint to Aqua, who did not uphold her complaint. They said the affordability assessments were appropriate and proportionate. Miss W brought her complaint to our service.

Our investigator did not uphold Miss W's complaint. He said that Aqua should have made further checks for some of the lending decisions, but Miss W was unable to provide all of the statements for her different accounts, so he couldn't say the lending was unaffordable.

Miss W asked for an ombudsman to review the complaint. She said that if Aqua would have looked at her bank statements they would have seen she received income from being a student, and they shouldn't class this as income. She said Aqua should have completed further checks, and it appears their checks were limited.

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 approve or increase the credit available to Miss W, 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 credit card

I've looked at what checks Aqua said they did when initially approving Miss W's application. I'll address the other lending decisions later on. Aqua relied on information from Miss W and a Credit Reference Agency (CRA).

Miss W declared a gross annual income of £24,000. The data showed that Miss W had not defaulted on any accounts, and the CRA reported there were no County Court Judgements (CCJ's) on Miss W's credit file. The checks showed that Miss W was not in arrears on any of her active accounts at the time of the checks, or the six months prior to the checks.

The checks showed Miss W currently had a 0% debt to gross annual income ratio. So it appeared she had no other unsecured debt at the time she applied for this account. Aqua completed an affordability assessment including information from Miss W, and modelling to assess whether the initial credit limit would be affordable and sustainable for Miss W. The outcome of the affordability assessment showed that Miss W should comfortably be able to afford sustainable repayments for a £300 credit limit.

So I'm persuaded that Aqua's checks were proportionate here, and they made a fair lending decision to approve a £300 initial credit limit.

February 2017 credit limit increase - £300 to £1,000

A CRA reported that Miss W's active unsecured debt was £287 at the time of the checks, which was not substantially higher than what it was at the account opening stage. The CRA Aqua used did not report any arrears on any external accounts in the 12 months prior to this lending decision.

Aqua would also have been able to see how Miss W used her Aqua account since it had been opened. Miss W incurred multiple and late fees since her Aqua account had been opened, which could suggest financial difficulties, or they could have been oversights/poor account management. Miss W at times also made repayments which were a lot larger than her requested minimum repayments, which could suggest she may have had the affordability to make higher repayments for a higher credit limit. But based on how Miss W managed her account since it had been opened, I'm persuaded that this should have prompted further checks from Aqua.

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 W to enquire why she had exceeded her credit limit on multiple occasions, and been late with her repayments at times, and to ensure that she could afford the repayments on the Aqua 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.

Our investigator asked Miss W if she could provide us with her bank statements leading up to this lending decision to see if the lending would be affordable and sustainable for her. But Miss W confirmed that she wasn't able to provide us with her bank statements leading up to this lending decision, despite her trying to obtain these.

So on the face of it, it does look like Aqua should've looked more closely into this. But as my role is impartial, that means I have to be fair to both sides and although I'm satisfied that Aqua should've done more checks here – I can't say whether further checks would've revealed further information which means they wouldn't have lent. So as Miss W hasn't provided us with the information she was asked for (albeit it appears through no fault of her own), that means that it wouldn't be fair for me to say that Aqua shouldn't have lent here, because I don't know what further checks would reveal.

August 2017 credit limit increase - £1,000 to £1,600

A CRA reported that Miss W's active unsecured debt was £954 at the time of the checks, which was not substantially higher than at the last lending decision. Miss W had not been in arrears on an account since the last lending decision. Miss W incurred no late or overlimit fees since the last lending decision. So there were no signs of financial difficulty leading up to this lending decision. Since Miss W's account had been opened, she had made a number of repayments which would be affordable for a £1,600 credit limit.

So due to now adverse information since the last lending decision, and how Miss W managed her account since the last lending decision, I'm persuaded that Aqua's checks were proportionate here, and they made a fair lending decision.

January 2018 credit limit increase - £1,600 to £2,500

A CRA reported that Miss W's active unsecured debt was £1,392 at the time of the checks, which was not substantially higher than at the last lending decision. Miss W had not been in arrears on an account since the last lending decision. Miss W incurred no late or overlimit fees since the last lending decision. So there were again no signs of financial difficulty leading up to this lending decision. Since Miss W's account had been opened, she had made a number of repayments which would be affordable for a £2,500 credit limit.

So due to now adverse information since the last lending decision, and how Miss W managed her account since the last lending decision, I'm persuaded that Aqua's checks were proportionate here, and they made a fair lending decision.

May 2018 credit limit increase - £2,500 to £3,500

A CRA reported that Miss W's active unsecured debt was £1,666 at the time of the checks, which was not substantially higher than at the last lending decision. Miss W had again not been in arrears on an account since the last lending decision. Miss W incurred no late or overlimit fees since the last lending decision. So there were again no signs of financial difficulty leading up to this lending decision.

Since the last lending decision, Miss W's had at times made a number of repayments which were a lot higher than her minimum repayment, such as £453.19 and £388.27, which I wouldn't expect Miss W would be able to make if she was struggling financially leading up to this lending decision.

So due to now adverse information since the last lending decision, and how Miss W managed her account since the last lending decision, I'm persuaded that Aqua's checks were proportionate here, and they made a fair lending decision.

December 2018 credit limit increase - £3,500 to £4,100

A CRA reported that Miss W's active unsecured debt was £3,255 at the time of the checks, which was almost double of what it was at the last lending decision. Miss W had again not been in arrears on an account since the last lending decision.

Miss W incurred an overlimit fee since the last lending decision, although I note she brought the account back within the credit limit within the next month, and the next statement period she made total repayments of £350.

But due to the increased debt and the overlimit fee incurred, I'm persuaded that Aqua should have completed further checks to ensure Miss W could afford a £600 higher credit limit. As

I've said before, there's no set way that Aqua should have completed further checks. Miss W has provided our service with bank statements leading up to this lending decision.

I've considered what Miss W has said about how Aqua should not count her student loan as her income. So I've considered what the Financial Conduct Authority (FCA) Consumer Credit Sourcebook (CONC) says about student income/loans (if anything) in relation to income towards repaying unsecured debt. CONC in relation to creditworthiness assessments does not mention student lending/income specifically.

But CONC 5.2.16(5) says that "*Income can include income other than salary and wages*". So I'm not persuaded that this should be excluded, however, Aqua would need to be mindful that this isn't a monthly payment (it appears that these are paid three times a year).

Miss W's statements show she manages her account well, with no returned direct debits, or her entering an overdraft. She often has a three figure credit balance, and she has enough disposable income in order to make non-priority transactions. So if Aqua would have requested Miss W's bank statements leading up to this lending decision, I'm persuaded that they would have seen that repayments for a £4,100 credit limit would be affordable and sustainable for Miss W. So I'm persuaded that they made a fair lending decision here.

March 2020 credit limit increase - £4,100 to £5,600

A CRA reported that Miss W's active unsecured debt was £3,940 at the time of the checks, which was not significantly higher than at the last lending decision. Miss W had again not been in arrears on an account since the last lending decision.

Miss W incurred three overlimit fees and one late fee since the last lending decision, although I note at times she made repayments which were higher than the minimum requested repayments.

So due to how Miss W managed her account leading up to this lending decision, I'm persuaded that Aqua should have completed further checks to ensure Miss W could afford a £1,500 higher credit limit. As I've said before, there's no set way that Aqua should have completed further checks. Miss W has provided our service with bank statements leading up to this lending decision.

Miss W's statements show she sometimes enters an overdraft, although entering an overdraft in its own right does not mean that Miss W couldn't afford a higher credit limit. I couldn't locate any student loans/income over the period I looked at. But there are credits from a company crediting her account each month which range from £980 a month to £2,164.97. The statements show again that Miss W has enough disposable income in order to make non-priority transactions.

So if Aqua would have made further checks based on how Miss W had been managing her account leading up to this lending decision, I'm persuaded that they still would have approved the credit limit increase as it would appear that Miss W would have a sufficient disposable income in order to make sustainable and affordable repayments for a £5,600 credit limit.

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 W 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 W to accept or reject my decision before 5 December 2025.

Gregory Sloanes
Ombudsman