

The complaint

Mr D complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved his credit card application and later increased the limit. Mr D also complains that Aqua treated him unfairly and failed to identify and support him as a vulnerable customer.

What happened

Mr D applied for an Aqua credit card in December 2019. In his application, Mr D said he had an annual income of £20,000 that Aqua calculated left him with around £1,313 a month after deductions. Estimates for Mr D's rent and general living expenses were used by Aqua in its affordability assessment. A credit search found Mr D had incurred a default around 28 months earlier but had no other adverse credit reported and no recent missed payments. The credit search showed Mr D had existing debts of around £475 with monthly repayments of £72. Aqua applied its lending criteria and reached the view Mr D had a disposable income of around £342 a month. Aqua approved Mr D's application and issued a credit card with a limit of £900.

Mr D used the credit card and in August 2020 Aqua increased the limit to £1,650. Aqua says it looked at Mr D's account use, credit file and completed a new affordability assessment before increasing his limit.

Mr D's explained that he sought the assistance of a service that provides debt advice (S) in early 2021 and agreed a Debt Management Plan (DMP) including his Aqua credit card. But despite agreeing the DMP and making the payments agreed, Mr D says Aqua still reported arrears on his credit file and ultimately a default after terminating the account.

More recently, Mr D contacted Aqua and asked for a breakdown of the payments he'd made, interest, charges and fees applied to his credit card over the years. Mr D says Aqua sent him copies of his credit card statements but missed the June 2023 statement in response. Mr D went on to raise a complaint and Aqua issued a final response.

In its final response, Aqua said it had carried out the relevant lending checks before approving Mr D's application and increasing the limit and didn't agree it lent irresponsibly.

An investigator at this service looked at Mr D's complaint. They thought Aqua had completed reasonable and proportionate checks before approving Mr D's application and increasing the limit and weren't persuaded it lent irresponsibly. The investigator also thought Aqua treated Mr D fairly when it was contacted by S in January 2021 by agreeing a payment freeze and that it was unaware of his mental health conditions that mean he's vulnerable. As the investigator wasn't persuaded Aqua treated Mr D unfairly and thought it had carried out reasonable checks before agreeing to lend they didn't uphold his complaint.

Mr D asked to appeal and said he still had concerns over the affordability of the credit card, that interest and charges continued to be applied during financial difficulty, that his health conditions were not identified or accommodated by Aqua and that the relationship had been unfair. As Mr D 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 or increasing the credit limit, the rules say Aqua had to complete reasonable and proportionate checks to ensure Mr D 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 obtained when considering Mr D's application above. Mr D confirmed his income and Aqua took a net monthly figure. Aqua also used estimates for Mr D's rent and general living expenses – an approach it's allowed to take under the relevant lending rules. Mr D's credit file showed he had default information but the newest was 28 months old at the point of application. I think it's fair to say Mr D had a low level of other unsecured debt at the time and his monthly repayments were up to date with no recent arrears noted. I haven't seen anything on the credit file information provided that would've indicated Mr D was experiencing financial difficulties or already overindebted.

After completing its affordability assessment and applying its lending criteria Aqua reached the view Mr D had a disposable income of around £342 a month. I'm satisfied that was a reasonable conclusion for Aqua to reach following proportionate lending checks. And I'm satisfied that a disposable income at that level would've been sufficient to sustainably afford repayments to a new credit card with a £900 limit. I'm sorry to disappoint Mr D but I haven't been persuaded Aqua lent irresponsibly when it approved his credit card application.

Aqua increased the limit to £1,650 in August 2020. I can see that in March, April and May 2020 Mr D incurred late fees on his Aqua credit card. But the contact notes provided by Aqua show Mr D's direct debit arrangements had been updated in January 2020 and indicate there was a problem with the payment. Mr D went on to make manual payments in the following three months before a new direct debit was instructed. I noted that in May 2020 Mr D made a manual payment of £895.21, almost clearing the outstanding balance. The information on file doesn't indicate the payments were late as a result of financial difficulties.

Before increasing the credit limit Aqua completed a new set of affordability checks. Aqua used a service provided by the credit reference agencies to verify Mr D's income level and returned a figure of £1,657 which is broadly in line with the application information. Aqua also applied estimates for Mr D's rent and general living expenses. Mr D's credit file showed he now owed around £480 in other unsecured debt with monthly payments of £35. No new adverse credit, recent missed payments or defaults were noted on Mr D's credit file. And I think the fact Mr D's other debts hadn't increased indicates he was in a stable financial

position at the time. Aqua reached the view Mr D had a disposable income of around £1,000 a month which was more than sufficient to cover the increased repayments.

Overall, I'm satisfied that Aqua's lending checks were reasonable and proportionate to the credit limit of £1,650 it went on to approve. And I'm satisfied the decision to approve Mr D's new credit limit was reasonable based on the information Aqua obtained. I'm very sorry to disappoint Mr D but I haven't been persuaded that Aqua lent irresponsibly when it increased his limit to £1,650.

Mr D's told us he feels Aqua unfairly applied interest and charges to his account while he was in financial hardship. I can see that in December 2020 Mr D was charged a late fee. In January 2021 S contacted Aqua and it applied a payment freeze while Mr D was arranging a DMP. No interest, fees or charges were applied to Mr D's account from that point. That means any repayments received by Aqua from January 2021 were used to directly repay the outstanding balance and not for interest or charges. In my view, that was a positive and sympathetic way for Aqua to respond to S' contact that was made on Mr D's behalf.

In the months that followed Aqua continued to liaise with S and accept reduced payments to Mr D's account following his DMP. I can see the amounts paid do vary and that there were also instances where payments weren't received. But I haven't seen anything that indicates Aqua treated Mr D unfairly during this time or failed to follow the instructions and payments provided by S.

Mr D says that while he was party to the DMP and making repayments via S his account was reported in arrears and then defaulted by Aqua. I understand Mr D was making payments due under the DMP. But when payments are either missed or lower than the contractual amount due that information will be recorded on a customer's credit file, even when subject to a DMP. Ultimately, once arrears reach a point where the account reaches the default limits a business can take that step and report it on a customer's credit file, even if they're making reduced payments under a DMP. S, the organisation that assisted Mr D, provides information that confirms this point via its website. I'm sorry to disappoint Mr D but I haven't seen evidence that shows Aqua treated him unfairly by recording arrears and the default on his credit file.

Mr D has sent us evidence to confirm serious mental health diagnoses he's received. Mr D's explained his conditions make it difficult to process information and manage his accounts. I don't doubt what Mr D's said and understand he is vulnerable which makes dealing with things like his credit card with Aqua harder. I wouldn't have expected Mr D to self identify as being vulnerable to Aqua but I also need to consider whether the information it had available would've been sufficient to show he may've needed additional support. And when Aqua was contacted by S to say Mr D wasn't able to afford repayments, it quickly agreed reduced repayments and a suspension of interest and charges. I'm very sorry to disappoint Mr D but having carefully considered all the available information I haven't been persuaded that Aqua treated him unfairly.

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 D 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.

I'm very sorry to disappoint Mr D but for the reasons I've given above I haven't been persuaded to uphold his complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 January 2026.

Marco Manente
Ombudsman