

The complaint

Miss T complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved two credit card applications she made and increased the credit limit on one of the accounts.

What happened

The background to this complaint and my initial conclusions were set out in a provisional decision. I said:

Miss T applied for an Aqua credit card in September 2016 (card 1). In the application, Miss T said she was employed with an annual income of £15,075 that Aqua calculated left her with £1,107 a month after deductions. Aqua carried out a credit search and found Miss T had existing debts totalling around £700 and was making monthly repayments of £6. No adverse credit, defaults or recent missed payments were found on Miss T's credit file. Aqua completed an affordability assessment and used estimates for Miss T's housing costs and general living expenses totalling £631 a month. Aqua applied its lending criteria and says Miss T had an estimated disposable income of £455 a month after covering her existing outgoings. Aqua approved Miss T's application and issued a credit card with a £300 limit.

Aqua went on to increase the credit limit to £950 in February 2017 and £2,150 in July 2017.

Miss T successfully applied for a Fluid credit card with NewDay in May 2019. NewDay increased the credit limit in stages until it hit £4,000 in January 2022. In 2023 Miss T complained that NewDay lent irresponsibly in relation to the Fluid account. NewDay upheld Miss T's complaint in November 2023 and issued a refund of the interest, fees and charges applied to the Fluid account.

Miss T applied for a second Aqua credit card in March 2023 (card 2). In this application, Miss T said she was earning £28,000 a year that Aqua calculated left her £1,973 a month after deductions. A new credit search was completed that found Miss T's unsecured debts had increased to around £17,000 and that her monthly repayments were £709 a month. No new adverse credit, defaults or recent missed payments were found on Miss T's credit file. Aqua applied estimates for Miss T's housing costs and general living expenses totalling £841 a month to its affordability assessment in addition to Miss T's existing debt repayments. Aqua says Miss T had an estimated disposable income of £428 a month after covering her existing outgoings. Aqua approved Miss T's application and issued a credit card with a £1,200 limit.

Last year, Miss T complained that Aqua lent irresponsibly and it issued a final response. Aqua said it had carried out the relevant lending checks before approving both applications and increasing the credit limit on card 1 and didn't agree it lent irresponsibly.

An investigator at this service looked at Miss T's complaint. They thought Aqua had completed proportionate checks before approving Miss T's applications and increasing the credit limit of card 1. The investigator wasn't persuaded Aqua lent irresponsibly and didn't uphold Miss T's complaint. Miss T asked to appeal and said she also had a Fluid credit card with NewDay during this time. Miss T added she'd taken out a new £10,000 loan and various credit cards before applying for card 2 and that the disposable income figures used by Aqua

were much higher than the reality. As Miss T asked to appeal, her complaint has been passed to me to make a decision.

What I've provisionally 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 Miss T 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'll start by looking at card 1's application and the credit limit increases Aqua went on to approve as they all predate Miss T's application for card 2.

I've set out the information Aqua used when considering card 1 above. I can see Miss T provided an income of £15,075 a year and Aqua calculated her net monthly income as £1,107. The credit search identified Miss T had a low level of other debt, owing around £700 at the point of application. No adverse credit or recent missed payments were found. The affordability assessment used estimates obtained from nationally recognised statistics for Miss T's housing costs and general living expenses – an approach it's allowed to take under the relevant lending rules. And Aqua reached the view Miss T had around £455 remaining each month after covering her existing outgoings. I also think it's fair to note the initial credit limit of £300 was reasonably low which meant the repayments were also modest. Overall, I'm satisfied Aqua carried out proportionate checks before approving Miss T's application and the decision to proceed was reasonable based on the information it obtained. I'm sorry to disappoint Miss T but I haven't been persuaded that Aqua lent irresponsibly when it approved card 1 with a limit of £300.

The credit limit increase to £900 took place in February 2017. Aqua's provided evidence from its lending systems that shows Miss T's account use and credit file at the time but the affordability checks it completed no longer remain available due to the passage of time. Businesses aren't obliged to retain information indefinitely and I'm satisfied the affordability checks are no longer available for review. With that said, I think it's fair to note Miss T's Aqua credit card was well managed with no overlimit or late fees applied. Miss T's credit file shows no new adverse credit, defaults or missed payments and she owed around £1,550 in unsecured debt at the time which was still reasonable low. In addition it was only five months since Miss T's original application was assessed so I'm satisfied the information used was current.

Overall, I'm satisfied Miss T had sufficient disposable income available to be able to sustainably afford repayments to a new credit limit of £900. In my view, the lending checks Aqua completed were reasonable and proportionate to the credit limit it went on to approve. And I'm satisfied the decision to increase Miss T's credit limit to £900 was reasonable based on the information Aqua obtained. I'm sorry to disappoint Miss T but I haven't been persuaded that Aqua lent irresponsibly when it approved the credit limit increase to £900 in February 2017.

The second credit limit increase, to £2,150, occurred in July 2017. Again, whilst the credit file information and account history remains available, the affordability checks completed do not. But I'm satisfied I have enough information to reach a fair lending decision in relation to the credit limit increase to £2,150 in July 2017. I can see Miss T's balance for card 1 in the preceding months was well below the credit limit. And there's no new evidence of fees or charges applied to the credit card. Miss T's other debts were reasonably low at around £1,000 and well maintained with no evidence of new missed payments, defaults or other adverse credit. In my view, the available evidence shows Miss T was in a stable financial position and likely able to sustainably afford the credit limit increase to £2,150. I'm sorry to disappoint Miss T but I haven't been persuaded Aqua lent irresponsibly when it approved the credit limit increases for card 1.

Whilst it doesn't form part of this complaint, I note that in between her applications for card 1 and card 2, Miss T applied for another credit card with NewDay in May 2019, branded as Fluid. I recently asked the business to provide some additional evidence showing how the account was run. Miss T was also able to provide a full copy of her credit file so I can see her Fluid credit card and the impact of her complaint being upheld on the outstanding balance.

By the time Miss T applied for her second Aqua credit card in March 2023 (card 2) her income had increased. But Miss T's unsecured debts had also increased significantly and she owed around £17,000 at this point. The application data Aqua provided shows Miss T already owed over 60% of her gross income in other unsecured debts. Given the increase and amount Miss T already owed (that doesn't appear to include her Fluid credit card balance of £4,468 in March 2023), I think it would've been reasonable for Aqua to have considered a more detailed approach to its lending checks before approving her application. One option available to Aqua would've been to review Miss T's bank statements for the preceding months which is the approach I've taken.

Having reviewed Miss T's bank statements, I found she had an average income of £1,885 in the three months before card 2 was approved. Miss T's average outgoings for payments collected by direct debit and standing order for items like her existing debts, council tax, rent, utilities and insurances came to an average of £1,941 a month in the same period. That doesn't include spending on things like food, fuel or other general living expenses. I'm satisfied Miss T's bank statements show her outgoings were already higher than her income when she applied for card 2 in March 2023.

In my view, more detailed lending checks by Aqua would've shown Miss T was already at or over capacity in terms of her existing outgoings and unlikely to be able to sustainably afford a new credit card with a limit of £1,200. I think more detailed checks would most likely have led Aqua to decline Miss T's application. As a result, I intend to uphold Miss T's complaint and direct Aqua to refund all interest, fees and charges applied to card 2 from the date of approval.

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, I'm satisfied the redress I have directed below results

in fair compensation for Miss T in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

I invited both parties to respond with any additional information or comments they wanted me to consider before I made my final decision. Miss T responded to confirm she is willing to proceed in line with the provisional decision. We didn't hear back from Aqua.

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.

As Miss T has confirmed she wants to accept the settlement noted in the provisional decision and Aqua hasn't submitted any new information I see no reason to change the conclusion reached. I still think Miss T's complaint should be upheld, for the same reasons.

My final decision

My decision is that I uphold Miss T's complaint about card 2 and direct NewDay Ltd trading as Aqua to settle as follows:

- Rework card 2 removing all interest, fees, charges and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Miss T along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. NewDay should also remove all adverse information regarding this account from Miss T's credit file.
- Or, if after the rework there is still an outstanding balance for card 2, NewDay should arrange an affordable repayment plan with Miss T for the remaining amount. Once Miss T has cleared the balance, any adverse information in relation to the account should be removed from their credit file.

If NewDay has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

*HM Revenue & Customs requires NewDay to deduct tax from any award of interest. It must give Miss T a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 8 December 2025.

Marco Manente
Ombudsman