

The complaint

Mrs P complains that NewDay Ltd trading as Aqua irresponsibly lent to her.

Mrs P 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 Mrs P herself.

What happened

Mrs P was approved for an Aqua credit card in October 2020, with a £300 credit limit. The credit limit was increased a further four times: in December 2022 (to £1,150), in April 2023 (to £2,900), in August 2023 (to £4,650), and in December 2023 (to £6,150). Mrs P says that Aqua irresponsibly lent to her. Mrs P made a complaint to Aqua, who did not uphold her complaint. Aqua said their affordability assessments were appropriate and proportionate. Mrs P brought her complaint to our service.

Our investigator did not uphold Mrs P's complaint. He said that Aqua made fair lending decisions. Mrs P asked for an ombudsman to review her complaint. She made a number of points. In summary, she said that the core issue was whether the repayments for increased credit limits were sustainable, not just meeting the minimum repayment, and she said the checks weren't proportionate.

Mrs P said that essential expenditure didn't cease to exist because it was transferred to a credit facility, which this distorted the affordability calculation, and she had low disposable income once this was properly categorized. She said she was regularly near the credit limit making only minimum repayments and had rising overall total debt. She said particular focus needs to be given from August 2023 given her financial situation at the time.

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.

Firstly, I'm aware that I've only summarised Mrs P's complaint points. And I'm not going to respond to every single point made by her. No discourtesy is intended by this. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to reach what I think is a fair outcome.

Before agreeing to approve or increase the credit available to Mrs P, 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 Mrs P's application. I'll address the credit limit increases later on. Aqua said they looked at information provided by Credit Reference Agencies (CRA's) and information that Mrs P had provided before approving her application.

The information shows that Mrs P had declared a gross annual income of £21,500, which Aqua calculated to be around £1,389.80 net a month. Mrs P also had no public records – such as a County Court Judgement (CCJ) showing on her credit file. But a default had been registered 22 months prior to the checks.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing. So I've looked at what Aqua's other checks showed to see if they made a fair lending decision here.

Mrs P had no accounts in arrears at the time the application was approved, or for the six months leading up to this. The £300 credit limit was around 1.4% of her declared gross annual income. She had an unsecured active debt to declared gross annual income ratio of 12.35%, which would have equated to her having around £2,655 of active unsecured debt.

Aqua completed an affordability assessment using information that Mrs P had given them, information from a CRA, regarding her monthly credit commitments, and modelling to estimate Mrs P's outgoings, which is an industry standard way of estimating a borrower's outgoings. Aqua are not required to verify outgoings such as requesting bank statements for each lending decision they make, as this would not be proportionate. The affordability assessment showed that Mrs P would have enough disposable income to be able to make sustainable and affordable repayments for a £300 credit limit.

As Mrs P had a low debt to income ratio, no recent adverse credit information, and the new credit limit was only 1.4% of her declared gross annual income, then I'm not persuaded that it would have been proportionate for Aqua to have requested a bank statement to have verified Mrs P's income and expenditure.

So I'm satisfied that the checks Aqua carried out here, prior to approving the initial £300 credit limit were proportionate and that Aqua made a fair lending decision to approve Mrs P's application for the Aqua account.

December 2022 credit limit increase - £300 to £1,150

A CRA reported that Mrs P's active unsecured debt was £3,932 at the time of the checks, which was higher than what it was at the last lending checks. Mrs P had been in arrears on her external accounts since her account had been opened, although I note that these accounts were brought back up to date, and this didn't happen in the six months leading up to this lending decision. But it wasn't an isolated occurrence.

Aqua would have also been able to see how Mrs P operated her account since the account opening checks. Mrs P incurred four overlimit fees, which could be a sign of financial difficulty. They weren't incurred in the six months leading up to this lending decision, but due to three of these being in a row, it could cause concern.

Aqua also completed an affordability assessment to see if Mrs P could make sustainable and affordable repayments for a credit limit which was almost quadrupling. Aqua used Current Account Turnover (CATO), to estimate Mrs P's income, which is an industry

standard way of assessing income.

But the CATO figure showed Mrs P's estimated income was £4,881, compared to her net monthly income at the application stage being £1,389.80. While I can't rule out a pay rise/promotion/new job etc for Mrs P in the time between her account opening and the checks for this lending decision, where there is such a discrepancy, I would expect Aqua to have completed further checks if this affected the affordability assessment.

And I'm satisfied that this applies here considering the assessed income is more than treble the original income. So based on the CATO figure, the overlimit fees incurred, the arrears on external accounts, the almost doubling of the unsecured debt, and the almost quadrupling of the credit limit increase, I'm persuaded that Aqua should have completed further checks to ensure the repayments for a £1,150 credit limit would be affordable and sustainable for Mrs P.

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 Mrs P to enquire why she had been in arrears more than once on an external account, been over her credit limit, and to find out what her income was. 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.

Mrs P has provided her bank statements for what appears to be her main account leading up to this lending decision. And her salary is similar to what it was when she originally applied for this account (less than £1,400 a month). The statements show that Mrs P was often overdrawn, but being overdrawn in its own right does not automatically equate to someone being unable to afford a higher credit limit. I say this as someone may choose to spend their disposable income on non-essential items as opposed to reducing their debt.

I can see that Mrs P transferred £460 into a secondary account each month. I haven't asked Mrs P to provide the statements for her secondary account, as I'm not persuaded that this would be proportionate here. I say this as Mrs P's statements that she sent us showed she had enough disposable income to make a lot of non-essential spending, which Mrs P could use to make sustainable and affordable repayments for an increased credit limit.

While I've considered what Mrs P has said about making essential spending on her Aqua credit card, I can't fairly say that this was reflective of what was spent on the card leading up to this lending decision (and this applies for future lending decisions also, which I will avoid repeating later). And I would also add that by using a specific merchant, for example a supermarket, that this doesn't automatically mean Mrs P spent the full purchase amount on essential items such as food.

I say this as supermarkets often sell non-essential items, (such as electrical items, physical media, lottery tickets, alcohol and tobacco etc), so Aqua would have no idea of what exactly Mrs P would have bought if she did use her card in such places (although as I've mentioned, she didn't always use her Aqua card every month leading up to this lending decision).

So if Aqua would have requested Mrs P's bank statements as part of a proportionate check for the reasons given earlier, then I'm persuaded that they still would have increased the credit limit, and they still would have made a fair lending decision here.

April 2023 credit limit increase - £1,150 to £2,900

A CRA reported that Mrs P's active unsecured debt was £4,780 at the time of the checks, which was not significantly higher than what it was at the last lending checks. And this was less than a quarter of her originally declared gross annual income. Mrs P had been in

arrears on none of her external accounts since the last lending decision.

Aqua would have also been able to see how Mrs P operated her account since the last lending decision. Mrs P incurred no late or overlimit fees. And Mrs P often made higher repayments than what she was required to make, which could suggest she had the affordability to sustainably make repayments for a higher credit limit.

So in the absence of any adverse credit file information since the last lending decision, and Mrs P's overpayments on the account, which I wouldn't expect her to be able to make if she was struggling financially leading up to this lending decision, then I'm not persuaded that it would have been proportionate for Aqua to have verified her income and expenditure again, or to have made any further checks.

So I'm persuaded that Aqua's checks were proportionate here, and they made a fair lending decision to increase the credit limit on the account.

August 2023 credit limit increase - £2,900 to £4,650

A CRA reported that Mrs P's active unsecured debt was £6,004 at the time of the checks, which was higher than what it was at the last lending checks. But this was less than a third of Mrs P's originally declared gross annual income. Mrs P had been in arrears on none of her external accounts since the last lending decision.

Aqua would have also been able to see how Mrs P operated her account since the last lending decision. Mrs P incurred no late or overlimit fees. And Mrs P often made higher repayments than what she was required to make, which could suggest she had the affordability to sustainably make repayments for a higher credit limit. The repayments weren't just over her minimum repayment, they were often around double her minimum repayment (sometimes three figures higher than what she was required to pay).

So in the absence of any adverse credit file information since the last lending decision, and Mrs P's overpayments on the account, which I wouldn't expect her to be able to make if she was struggling financially leading up to this lending decision, then I'm not persuaded that it would have been proportionate for Aqua to have verified her income and expenditure again, or to have made any further checks.

So I'm persuaded that Aqua's checks were proportionate here, and they made a fair lending decision to increase the credit limit on the account.

December 2023 credit limit increase - £4,650 to £6,150

A CRA reported that Mrs P's active unsecured debt was £7,845 at the time of the checks, which was higher than what it was at the last lending decision. The CRA Aqua used reported that Mrs P had not been in arrears on any external accounts since the last credit limit increase.

Mrs P incurred an overlimit fee on the account since the last lending decision, so this could be a sign of financial difficulty. I'm mindful that Mrs P also made total repayments in one month since the last lending decision of £362.43, which I would consider to be a sustainable repayment for the increased credit limit. But I'm also mindful that in the same period she spent £696.53 on the card. This is not reflective of what Mrs P often spent on the card. In the same month Aqua completed their checks, Mrs P spent £39.95 in retail transactions, and she repaid £259.38 in the same timeframe, so she was not over-reliant on the card each month.

So based on Mrs P's current debt being over a third of her originally declared income, the new credit limit being £1,500 higher, and the overlimit fee, then I'm persuaded that Aqua should've completed further checks to ensure the lending would be sustainable and affordable for her.

As I've mentioned before, there's no set way of how Aqua should have made further proportionate checks. Mrs P has provided us with her bank statements leading up to this lending decision.

Mrs P's salary is similar to what it was when she originally applied for this account (less than £1,400 a month). The statements again show that Mrs P was often overdrawn, but being overdrawn in its own right does not automatically equate to someone being unable to afford a higher credit limit, for the reason I gave earlier. Mrs P again transferred £460 into a secondary account each month.

I haven't asked Mrs P to provide the statements for her secondary account, as I'm not persuaded that this would be proportionate here. I say this as Mrs P's statements that she sent us showed she had enough disposable income to make a lot of non-essential spending, which Mrs P could use to make sustainable and affordable repayments for an increased credit limit especially given the level of repayments she was already making to the Aqua card.

So If Aqua would have requested Mrs P's bank statements as part of a proportionate check for the reasons given earlier, then I'm persuaded that they still would have increased the credit limit, and they still would have made a fair lending decision here.

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 Mrs P 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 Mrs P to accept or reject my decision before 11 May 2026.

Gregory Sloanes
Ombudsman