

complaint

Mrs K complains that NewDay Ltd (trading as Aqua) lent irresponsibly when it approved her credit card application and went on to increase her credit limit.

background

Mrs K applied for an Aqua credit card which was approved in November 2011 and had a £400 credit limit. Mrs K used her credit card and Aqua increased the credit limit over time. The limit was increased to £800 in September 2012, £1,200 in April 2013, £2,100 in December 2013 and £3,150 in November 2015.

Mrs K has explained that throughout her relationship with Aqua she was using other credit, including borrowing from payday lenders. Mrs K has also told us that she had some adverse credit during this time.

Mrs K complained about her credit card in 2018 but Aqua didn't agree it had lent irresponsibly. Mrs K referred her complaint to this service and an investigator looked at what had happened. He initially upheld Mrs K's complaint as he felt the information on her credit file should've caused Aqua to do more checks when looking at whether to lend. But Aqua provided additional information that showed it wasn't aware of all of the credit Mrs K had. As a result, the investigator changed his view and explained to Mrs K that he thought Aqua had lent responsibly based on what it knew at the time.

Mrs K didn't accept the investigator's view and asked to appeal her complaint so it's been passed to me to make a decision.

my findings

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

There isn't a set list of checks a business has to undertake before it agrees to lend to a consumer. But I'd expect to see checks that are proportionate to the type of borrowing being considered to look at whether the debt is sustainable for the borrower. I've looked at the initial application in 2011 as well as the following limit increases to decide whether Aqua lent responsibly.

In November 2011 Aqua approved a credit card with a £400 limit. Aqua says it completed a credit check via a credit reference agency but didn't find any evidence of adverse information. Mrs K told Aqua she was employed and earned £54,500 a year. Mrs K says if Aqua had checked her credit file it would've seen she was struggling at this time.

But Aqua has explained that in 2011 it only received basic information from the credit reference agencies. When it looked at Mrs K's credit file it noted she had some missed payments but as it will consider borrowers with some adverse credit that wasn't something that caused the application to be declined. I appreciate what Mrs K says about her credit at the time but I think Aqua completed proportionate checks when it asked about her personal and financial circumstances. I haven't found Aqua lent irresponsibly when it approved Mrs K's credit card in 2011.

Before I look at the subsequent limit increases I need to comment on the information Aqua receives from the credit reference agencies. Aqua's advised that it used a credit reference agency to get information during its relationship with Mrs K. Aqua's explained that the level of detail that's provided by the credit reference agency has changed over the years. In 2014 it started to get a more detailed picture of a borrower's other credit. In 2016 the credit reference agency started giving more information about payday lending. But up until that point, details of a customer's borrowing with payday lenders wasn't reported by the credit reference agency. That means that whilst I can see evidence of payday borrowing by Mrs K during the period in question, it doesn't appear that information was known to Aqua.

The credit limit increased from £400 to £800 in September 2012. Aqua has explained that Mrs K hadn't missed any payments, hadn't gone over her credit limit and maintained the terms of the credit card. Aqua received regular information from the credit reference agency and didn't find any new adverse information. As a result it wrote to Mrs K and advised that her credit limit had been increased. I think that was a reasonable decision given the checks Aqua completed.

In April 2013 Mrs K's credit limit went up to £1,200. Again, Aqua looked at the information it was given about Mrs K's other credit. It also looked at how she'd managed her account before deciding whether to proceed. I note there were no missed payments and Mrs K hadn't gone over her credit limit. I think Aqua's decision to increase Mrs K's credit limit was reasonable given the information it had at the time.

Aqua went on to increase Mrs K's credit limit to £2,100 in December 2013. Mrs K's account had been run without any missed payments and the balance had been kept below the credit limit. Aqua says it uses internal credit scoring and I can see from its systems that Mrs K's score had gone up in the month before it increased the limit. I note what Mrs K has told us about her circumstances around this time but from what I've seen, I'm not persuaded Aqua was aware she had taken out payday loans or was experiencing difficulties. I think Aqua's decision to increase Mrs K's credit limit was reasonable based on the information it had available.

From 2014 Aqua started to receive more information from the credit reference agency it uses. The number of active credit commitments Mrs K had was noted as well as the fact she'd defaulted on something in the last year. But I've looked at the credit report Mrs K supplied and I can see there was further information on there that wasn't reported to Aqua. I appreciate Mrs K feels Aqua should've known the limit increases weren't affordable but the information I've seen indicates she was managing her account. The information provided about Mrs K's credit does show she'd incurred a default but I don't think that's enough to persuade me that Aqua shouldn't have gone ahead.

The final limit increase to £3,150 took place in November 2015. At this point Mrs K had managed her account without exceeding her limit or missing a payment for several years. Aqua was provided with a more detailed picture of Mrs K's finances by the credit reference agencies as well. But it still didn't receive any information about payday lending. The credit reference agency appears to have started reporting that information around March 2016.

From the systems evidence I've seen I think Aqua's decision to increase Mrs K's limit was reasonable. It continued to look at how she'd managed her account as well as looking at

information concerning Mrs K's credit. I haven't seen anything to show that Aqua lent irresponsibly by increasing Mrs K's credit limit.

I note what Mrs K says about having some adverse credit and missing payments. But I don't think the extent Mrs K's credit and missed payments were known to Aqua as I've said above. I also note that Aqua wrote to Mrs K before it increased her limit but I haven't found anything to show she asked for the increases to stop. I appreciate Mrs K was going through a difficult time but I think Aqua could reasonably have expected her to say if she wanted to opt out of credit limit increases.

I'm sorry to disappoint Mrs K but whilst I appreciate she had some adverse credit and other borrowing, I haven't found that Aqua was aware of the extent when it agreed to lend. Aqua can decide how to set its lending criteria and whether to lend to borrowers with some adverse credit. So I can't say that its decision to proceed was unreasonable solely on the basis Mrs K had some adverse credit. I'm satisfied that Aqua's shown it did consider Mrs K's personal and financial circumstances before agreeing to approve her credit card and subsequent limit increases and I think the checks it completed were proportionate. As I haven't found Aqua lent irresponsibly I'm not telling it to take any further action to resolve this complaint.

my final decision

My decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 30 April 2019.

Marco Manente
Ombudsman