

## **complaint**

M W has complained that NewDay Ltd, trading as 'Aqua', acted irresponsibly when it repeatedly increased the limit on his credit card.

## **background**

Mr W took out an Aqua credit card in April 2013. The credit limit, at the time, was £250. Over the course of the next two years, Aqua increased the credit limit as follows:

July 2013	increased to £1,050
November 2013	increased to £1,550
April 2014	increased to £2,550
August 2015	increased to £3, 350

Thus, over 28 months, Mr W's credit limit increased from £250 to £3, 350.

Mr W said he struggled with debts and with the repayments. As a result, he incurred interest and charges, which pushed him further into debt. He complained that Aqua didn't carry out any affordability checks before increasing the credit limit and that the lending was irresponsible.

He asked Aqua to refund the interest and charges and to restore the credit limit to £250.

Aqua refused to refund him. It said it had carried out affordability checks when he opened the account and it was satisfied that the credit limit was affordable. Also, it reviewed his account regularly and was satisfied with the way he was managing it. It concluded that the increases to the credit limit were affordable for him.

Mr W wasn't happy with this outcome and so he brought his complaint to this service.

An investigator looked into his complaint and decided to uphold it. He concluded that the late payments and his credit history showed that M W couldn't afford the increases to his credit limit. He recommended that Aqua refund all the interest and charges accrued since July 2013 and that it remove any adverse information on his credit file to reflect that the lending was irresponsible.

Aqua disagreed with the investigator's view. It has asked for an ombudsman's final 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.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time. This includes the FCA's Consumer Credit Handbook (CONC) and the UK Finance guidelines.

Having done so, I consider that the increases in the credit limit were unaffordable for Mr W.

The FCA's rules require Aqua to undertake a reasonable assessment of Mr W's creditworthiness before significantly increasing the credit limit on his account. (CONC 5.2.A). This includes an assessment of whether the increases were sustainable – in other words, that Mr W could repay the debt without undue difficulty.

I'm satisfied that the increases in the credit limit were significant. The limit jumped from £250 in April 2013 to £1,050 in July 2013. That's an increase of £800 in just three months. Within 28 months, his credit limit had jumped by £3,100. So, I consider that Aqua had an obligation to check that the increases were affordable for Mr W.

Affordability checks should be proportionate so a lender might not do the same level of checks as it does at the opening of an account. But, typically, a lender will consider the information, which it already has about the customer, including how they've managed their account and the customer's ability to make repayments as they fall due. It may refresh checks with the credit reference agencies.

Aqua said it considered the information it already had on Mr W. It said Mr W always made payments and he always brought his account back under the limit before his next statement so it was satisfied with the way he was managing his account.

It also explained that, according to its lending criteria, late payments and being over the credit limit were no bars to an increase in credit limits. And it said it wouldn't increase the limit where the balance was over the limit at the time an increase is applied, or where, for three consecutive months, the customer was over the limit and had incurred an over limit charge.

However, I think there were signs that Mr W was in financial difficulties.

Aqua has relied heavily on Mr W's ability to make payments every month and to bring his account under the limit, so I've looked at his statements. The July 2013 statement showed that he was just over the £250 limit in June 2013. I would agree that on its own, this wouldn't give cause for concern.

However, as the investigator pointed out, he exceeded the credit limit on the next three statements and he incurred over the limit charges in August and September 2013 and a late payment fee in the same month. Yet, Aqua increased his credit limit by £500 in November 2013.

Mr W continued to maximise the credit limits and to exceed them. His annual statement for 2013/14 shows that he paid interest of £321.87 and charges of £36 for missed payments and £60 for exceeding the limit. The annual statement for 2014/15 shows he paid interest of £815, missed payment charges of £60 and over the limit charges of £108.

I can see that Mr W did make regular payments and managed to bring his balance back to under the credit limit but only just – and that wasn't always the situation. So, for example, the closing balances on his statements for August to September 2013 were above the limit of £1,050. It was the same for June, August and September 2014.

I also accept that, occasionally, a customer might miss a payment or make a late payment but I don't consider this was occasional with Mr W and, as mentioned, each time the limit increased, he made full use of it.

I've also looked at Mr W's credit file. During the relevant period, Mr W was also taking out payday loans, sometimes two or more in the same month. I think the missed and late payments should've prompted Aqua to check his credit file. Had it done so, it would've seen these loans and I don't think it would've increased his credit limit.

In these circumstances, I consider that the increases in Mr W's credit limit were unaffordable and unsustainable. In reaching this conclusion, I've also taken into account guidance by UK Finance on credit card increases, which cites regular late and/or missed payments or paying the minimum payment over an extended period as indicators of financial difficulties.

I think it's fair and reasonable, therefore, for Aqua to restore his account to the position it was in before the increase in July 2013.

### **my final decision**

My final decision is that I am upholding this complaint and I'm asking NewDay Ltd, trading as Aqua, to:

- refund the charges and interest added to the account since July 2013 and
- restore the account the position it was in before the increase in July 2013
- remove any adverse information on Mr W's credit file relating to this account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 9 July 2020

Razia Karim  
**ombudsman.**