

## **complaint**

Mr H complains that a loan from NewDay Limited, trading as Aqua, wasn't affordable for him and that it shouldn't have been made to him. He also complains that the credit limit increases on his credit card account with Aqua weren't affordable for him and that it should've made more checks.

## **background**

Mr H had a credit card account with Aqua with a credit limit of £250. He was offered increases in his credit limit to £500 in May 2017 and £1,000 in October 2017. He then asked Aqua to increase his credit limit to £2,000 in June 2018, but it only agreed to increase his limit to £1,600. He applied to Aqua for a loan of £2,500 in July 2018 and he entered into a fixed sum loan agreement.

He complained to Aqua in September 2018 that it had lent to him irresponsibly. It said that it remained confident that it had lent to him responsibly, so it was unable to refund any fees or remove any adverse information from his credit file. Mr H wasn't satisfied with its response, so he complained to this service later that month. He says that he was spending thousands of pounds each month on gambling.

The adjudicator didn't recommend that this complaint should be upheld. She thought that Aqua had performed sufficient assessments before making any credit limit increases and before approving his loan application. She said that Aqua's system notes show that Mr H's vulnerability was recorded in February 2019 and she thought that his vulnerability could've been recorded sooner, but that wouldn't have prevented him from making further gambling transactions. She thought that it would be unreasonable to expect Aqua to take action as Mr H paid off his balance which showed he managed his account well and he didn't request it to lower his limit. She said that there were no further credit limit increases and his request to close his account was actioned once the full balance was repaid.

Mr H has asked for his complaint to be considered by an ombudsman. He says, in summary, that he'd like the whole of his complaint to be checked and not just the period from when he made Aqua aware of his gambling. He asks what's the point of a vulnerable marker on a customer's account if it means no action is required and why was it only put on his account in February 2019 when he made it aware of his gambling before then. He says that Aqua should've suspended his credit card or reduced the limit on the account (and the limit wasn't reduced until after Aqua was contacted by this service). He says that a large number of complaints to this service which involve gambling issues are settled, this isn't an easy topic for him and he feels that he wasn't protected.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I sympathise with Mr H for his gambling issues and for the other difficulties that he's suffered as a result. I see that he's getting treatment for it and that seems to be a positive step.

He complained to Aqua about irresponsible lending in September 2018 and he then complained about those issues to this service later that month and referred to his gambling issues. His complaint about Aqua's subsequent response to his gambling issues has been added since then. But as it wasn't included as part of his original complaint, I'm unable to

fully address those issues in this decision. If Mr H wants to make a complaint about Aqua's response to his gambling issues he should complain to Aqua and then – if he's not satisfied with its response – he may be able to complain to this service.

Mr H had a credit card account with Aqua with a credit limit of £250. It says that his account was reviewed in May 2017 and he had become eligible for a credit limit increase even though some over limit charges had been applied to his account. It says that over limit charges don't disqualify a customer from receiving a credit limit increase unless they received them for each of the three months preceding the credit limit increase. Mr H was offered an increase in his credit limit to £500 which he accepted. I'm not persuaded that it was irresponsible for Aqua to offer Mr H an increase in his credit limit from £250 to £500 at that time.

It says that a further account review took place in October 2017 and Mr H was eligible for a credit limit increase from £500 to £1,000 which was offered to him and accepted. It says that another over limit fee had been applied to his account since his last credit increase, but the account was still within its policy for a credit limit increase. I'm not persuaded that there's enough evidence to show that it was irresponsible for Aqua to offer Mr H an increase in his credit limit from £500 to £1,000 at that time – and if he didn't want it, he had the option to not accept it.

Mr H then contacted Aqua in June 2018 and asked for his credit limit to be increased to £2,000. It said that it could only increase his credit limit to £1,600 – which he accepted. And in August 2018 he contacted it again and asked for his credit limit to be increased to £1,800 but it declined his request. I'm not persuaded that there's enough evidence to show that it was irresponsible for Aqua to increase Mr H's credit limit from £1,000 to £1,600 at that time. Mr H had asked it for an increase to £2,000 but it only increased it to £1,600 and declined his request to increase his limit in August 2018 which I consider shows that it was acting responsibly.

When Mr H complained to Aqua in September 2019 its notes show that he was: *"unhappy with the irresponsible lending and [credit limit increases]"*. There was no mention of his gambling issues at that time and its final response letter didn't refer to those issues. He only referred to his gambling issues when he complained to this service later that month.

The adjudicator said that Mr H's gambling issues were first noted on his account by Aqua in February 2019, but he says that he made it aware of his gambling issues before then. But I've seen nothing to show that he made Aqua aware that he had gambling issues before his complaint to this service which was then sent to Aqua by this service the following month. So I consider that it should then have been aware of his gambling issues. But I'm not persuaded that there's enough evidence to show that it was aware of his gambling issues when it increased his credit limit or made the loan to him.

Mr H has continued to spend money on gambling but Aqua hasn't increased his credit limit and has received no request from him to reduce his credit limit. He asked for it to close his account and he borrowed money from his family to clear the outstanding balance of the account so that it could be closed. I'm not persuaded that there's enough evidence to show that Aqua has acted incorrectly or that it was required to take any other actions.

Mr H applied to Aqua for a loan of £2,500 in July 2018 and he entered into a fixed sum loan agreement. The loan was repayable by 47 monthly payments of £72.48 and a final payment of £72.24 and the interest rate was 18.9% APR. He'd provided information to show that his

monthly income was £1,600 and that his expenses were £697 (£47 on credit commitments, £150 on rent, £100 on groceries, £100 on insurance, £50 on travel and other expenses of £250). The outstanding balance on his credit card in June 2018 was £373.20 (with a credit limit of £1,600) and the minimum payment was £24.65.

A lender should make proportionate checks about the affordability of a loan before lending to a customer. What is proportionate will depend on the circumstances of the loan. I consider that the information that Aqua had gathered about Mr H's income and expenditure was proportionate for a loan of £2,500 with monthly repayments of £72.48. And I consider that it was reasonable for it to conclude on the basis of that information that the loan was affordable for Mr H at that time.

Mr H's credit card statement for July 2018 – after the loan had been made to him – shows that he had new transactions of £1,694 – many of which related to gambling. But there were no such transactions on the June 2018 statement. I'm not persuaded that there's enough evidence to show that it was irresponsible for Aqua to have made the loan to Mr H or that the loan was unaffordable for him at the time that it was made to him.

Aqua says that the outstanding balance on the loan account is £1,557.54. I'm not persuaded that there's enough evidence to show that it's acted incorrectly in its dealings with Mr H. So, I find that it wouldn't be fair or reasonable for me to require it to write off the loan, refund the interest or fees that he's been charged or to take any other action in response to his complaint.

### **my final decision**

For these reasons, my decision is that I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 5 March 2020.

Jarrold Hastings  
**ombudsman**