

## **complaint**

Mr R complains that it was irresponsible of NewDay Ltd (trading as Aqua) to give him a credit card and increase the credit limit at times. He's also unhappy with the way Aqua responded when he had trouble making repayments.

## **background**

Mr R applied for a credit card from Aqua in June 2017. He'd defaulted on other accounts and reached the maximum limit on two credit cards at the time. And he thinks Aqua would have realised it would be irresponsible to lend if it had carried out proper affordability checks.

Mr R says Aqua shouldn't have offered to increase his credit limit in January and May 2018 - as he'd been making minimum payments for some time, made payments late and missed payments in February and March 2018.

Mr R told Aqua he was having financial problems in June 2018. He thinks it was wrong to default the account and pass the debt to a collections agency in September 2018 when he was keeping to an agreed payment arrangement. He wants Aqua to refund interest and fees and rectify his credit file.

Aqua thinks it carried out proper checks and lent responsibly - both at the outset and when it increased Mr R's credit limit to £1,200 in January 2018 and £1,950 the following May. It says Mr R had the option to opt out of these increases if he wanted to. And it responded appropriately when Mr R experienced financial problems after losing his job. So it shouldn't have to do anything further.

Our adjudicator doesn't think this complaint should be upheld. She accepts Mr R had payday loans and other credit - and there was some adverse information on his credit file - when he applied for this card. But, she thinks the checks Aqua did were proportionate and it had no reason to decline the application.

She's satisfied Mr R seemed to manage this account relatively well - until just before he told Aqua he'd lost his job and was having financial problems. She accepts he incurred over limit and late fees at times but he usually rectified this fairly quickly - and she's not persuaded it was wrong of Aqua to offer to increase the credit limit.

She thinks Aqua responded positively and sympathetically when Mr R had financial problems. She's not persuaded it was wrong to pass the debt to a collections agency or report information to credit reference agencies (CRAs). She doesn't recommend Aqua should provide a refund or do anything further.

Mr R says Aqua lent him this money without proper checks. He'd reached limits on other credit cards and payday loans. And he struggled to meet minimum repayments on this account so Aqua applied late fees regularly. He thinks all of this should have rung alarm bells - especially when he started to miss more payments in 2018. He feels Aqua should have done more checks or refused to lend. He asked for an ombudsman to review the matter.

## **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 am sorry to disappoint Mr R but I've reached much the same conclusions as our adjudicator for broadly the same reasons.

Lenders like Aqua are required to undertake reasonable and proportionate checks before lending to ensure that borrowers are likely to be able to repay what they owe sustainably. Aqua wasn't obliged to do any one check in particular here - what's appropriate depends on a variety of factors including the amount borrowed and repayment terms.

### *the initial application*

Aqua says it asked Mr R about his income and personal circumstances and reviewed information from CRAs before it agreed to lend him £600 initially. I have seen information Aqua obtained and I've reviewed Mr R's credit file.

I am satisfied Mr R told Aqua he was single and working, with gross income of over £20,000 a year. I can see Mr R had taken out some payday loans. But, the presence of payday borrowing alone doesn't mean Aqua should have refused to lend or had to do more checks.

I accept there was some adverse information on Mr R's credit record - some accounts were in default. But the last default was nearly two years before this application. And more recent information suggests Mr R seemed to getting his finances back on track - there's no significant arrears or evidence that he was over extended. Overall, I think the checks Aqua did were reasonable and proportionate. And I'm not persuaded it was irresponsible to accept this application.

### *credit limit increases*

Aqua says it reviewed Mr R's account (which included monitoring of late payments, over limit fees and cash withdrawals, amongst other things) along with information from CRAs before it offered to increase his credit limit. I've seen information Aqua had at the relevant times and considered Mr R's credit file and account statements.

I accept Mr R went over his credit limit at times - and I can see he sometimes made only the minimum payment due. But I'm satisfied this wasn't the case every month. Mr R paid more than the minimum due at times. I can see he sometimes missed payments and/or made a payment late. I'm satisfied Aqua asked about that and Mr R said he'd just forgotten the payment was due - and generally put things right fairly quickly. So, I can't fairly say this should have been a red flag for Aqua.

Taking everything into account, I think the checks Aqua did before offering these increases seem reasonable and proportionate. I don't think Aqua had reason to think the increases might not be affordable for Mr R - or do additional checks. And I'm not persuaded it was wrong of Aqua to offer them.

### *financial difficulties*

Mr R told Aqua that he lost his job in June 2018 and he was having financial difficulties. Lenders are expected to respond positively and sympathetically in this sort of situation. I can see Aqua asked Mr R for information about his finances - to see what level of payment he

might be able to afford. Then it agreed to freeze interest and charges, accepted lower payments for a few months and refunded some fees, as a goodwill gesture. I think that was positive and sympathetic.

It looks as if Mr R's circumstances hadn't improved by September 2018 and he was unable to resume his contractual payments. Aqua took steps to default the account and transfer the matter to debt collectors. I can't fairly say this was unreasonable.

I understand Mr R would rather Aqua hadn't reported what happened to CRAs. But, I can't reasonably find it was wrong of Aqua to record information about this account on Mr R's credit file. And lenders like Aqua have a responsibility to record such information accurately so I can't require it to remove the default here.

I realise this is not the outcome Mr R hoped for. I'm sorry to hear about the problems he's been having and I understand he'll probably feel let down by my decision. But, for the reasons I've given, I can't fairly find Aqua has done something wrong and I'm unable to require it to provide a refund or do anything further.

### **my final decision**

My decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 12 July 2019.

Claire Jackson  
**ombudsman**