

complaint

Mrs J complains that NewDay Ltd (trading as Aqua) were irresponsible in increasing the credit limit on her credit card.

background

In December 2015, Mrs J was successful in applying for an Aqua credit card, with a limit of £250. That month, she withdrew £120 in cash from the card and in February 2016, Mrs J missed her credit card payment. She remained fairly close to the limit each month from December 2015 to May 2016. On 18 April 2016, after enquiring, Mrs J was advised that she was not eligible for a limit increase and on 29 April she exceeded her limit.

The following month, on 12 May, Aqua wrote to Mrs J and offered a credit limit increase from £250 to £1250. Mrs J accepted the offer on 19 May.

From June 2016 onwards, the account was over its limit. Between January 2017 and April 2017, the account was also in arrears. Mrs J explained to Aqua that the arrears were due to a temporary reduction in income. She further explained that she was experiencing financial difficulties and would not be in a position to make full payments immediately.

She was advised of the charges and the effect on her credit file. During this phone call, Mrs J was also told of the risk of default and she explained to Aqua again that this situation was due to a temporary reduction in income.

In May 2017, Mrs J explained that she was eager to enter into a payment arrangement with Aqua and explained that she felt she was in financial hardship. An income and expenditure assessment was carried out and Aqua felt Mrs J was not eligible for a payment arrangement.

The account was defaulted, and the debt was later sold to a third party. From the date of the increase to when the debt was sold, Mrs J was over her limit. Further, the amount she was over by, had increased each month until the debt was sold.

Mrs J raised a complaint with Aqua, stating that she shouldn't have been offered a credit limit increase as it was obvious that it was unaffordable. She requested a refund of the interest and any charges plus statutory interest, in addition to the removal of any negative information placed on her credit file.

In their response, Aqua explained why they did not uphold her complaint. Unhappy with Aqua's response, Mrs J brought this matter to us.

Our investigator did not think Aqua's checks on Mrs J, prior to increasing her credit card limit, were proportionate to the significant increase. As a result, they recommended Aqua:

- refund to the account all the interest and charges since the date of the credit limit increase in May 2016;
- remove any negative information (including the default) from Mrs J's credit file, placed there as a result of increasing her limit to £1250; and
- pay £100 to Mrs J for the distress and inconvenience caused.

As Aqua did not respond to our investigator's recommendation, this has been passed to me for 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.

Aqua has told us they typically offer credit cards to people who are trying to improve their credit rating. Mrs J had five defaults and two active credit card accounts at the time of the application. Aqua has also confirmed that Mrs J met their criteria for a credit card, with a limit of £250 at the time of her application. All things considered, I would say it was reasonable for Aqua to approve Mrs J's initial application and provide a credit card with a limit of £250.

Five months into the credit card agreement, after a cash withdrawal; a missed payment and a rejected application for a limit increase, Mrs J's limit was substantially increased to £1250. In the letter offering the increase, Aqua stated they'd looked at how she'd managed her credit card and believed the new limit was suitable.

They were therefore aware of how she was managing her credit card account. But I am not persuaded by Aqua that they had sufficient information regarding Mrs J's circumstances, which informed their decision to increase her limit. In particular, Mrs J was refused an increase on 18 April 2016, but was offered an increase on 12 May, even though she had gone over her limit on 29 April.

The relevant rules at the time said that before a significant increase takes place, the lender must assess the customer's creditworthiness. In addition, the creditworthiness assessment, must be based on "*sufficient information*". Aqua have not provided satisfactory evidence to show sufficient information was taken into account, before taking the decision to significantly increase Mrs J's credit limit.

Applying the rules at the time, a lender is required to consider whether the repayments of an increased limit would be sustainable. By sustainable I mean, consideration must be given by the lender as to whether the borrower would be able to make the repayments in a reasonable period of time. They would also need to consider whether this could be done without adversely impacting their situation, if they were to fully utilise the new credit card limit.

I appreciate Mrs J did not have to accept this credit limit increase, and Aqua correctly advised that she could decline it. However, some responsibility must lie with Aqua for *offering* to increase the limit. Considering how Mrs J had managed her credit card account, I do not think it was reasonable for Aqua to increase her credit limit.

The £1,000 increase was significant, and I cannot see that Aqua's assessment of Mrs J's eligibility was proportionate to this increase. There is insufficient evidence to demonstrate Aqua took reasonable steps to determine whether Mrs J was able to take on such a substantial increase of credit.

I am satisfied that Aqua had carried out suitable checks to grant Mrs J the credit card limit of £250. However, I do not think they had enough information to allow for such a sizable increase in the credit card limit. I am therefore of the view that Aqua should not have increased this limit.

Having reviewed Mrs J's bank account statements from that period, I can see that she had limited disposable income due to her efforts to clear the debts she had already committed to

paying. There is no evidence to suggest Aqua made a reasonable effort to get a true picture of Mrs J's circumstances at the time of the increase.

On 18 April, Mrs J was not eligible for a credit limit increase, but on 12 May she was. The only thing that changed during that time was that Mrs J went over her credit limit on 29 April. Aqua has already said they were aware of how Mrs J was using her credit card. Given that this was so close to them deciding to increase her credit card limit, Aqua should have engaged with Mrs J to get a better picture of her financial situation.

Aqua didn't do this and Mrs J found herself in an increasingly difficult financial situation due to the added interest and charges post credit card limit increase. Going over a credit limit, is not an indicator that someone is suitable for a significant limit increase. As I don't think the credit limit increase should have been granted, it would be unfair to say the associated charges and interest were fair or reasonable in these set of circumstances.

I recognise that Mrs J has had the benefit of having the increased limit (as she has spent the money). It is my understanding that this is being managed through the third party who bought the debt from Aqua. And it has been confirmed that the third party has not applied any charges or fees since they purchased the debt in 2017. As Mrs J has been able to come to an affordable repayment arrangement for this borrowing, I don't consider it unfair that she repays the money she borrowed.

It is my understanding that Aqua has recently offered to refund any over limit and late fees and a proportion of interest from the date of the increase (May 2016) to the date of sale (August 2017). They've said this will be offset against any balance remaining with the debt sale agent.

Aqua has also added that if the balance has already been paid, this would go directly to Mrs J. Mrs J is not happy with this offer and has said she would like all of the interest refunded in addition to the late and over limit fees. Whilst I am pleased to see that Aqua have made an attempt to resolve this matter, I do not think they have gone far enough.

I think it would be fair and reasonable for Aqua to refund all of the charges and interest on the credit card account, that relate to the amounts Mrs J borrowed over her original credit limit. Further, the default notice should also be removed from Mrs J's credit file.

Aqua didn't act responsibly in increasing Mrs J's limit in these particular set of circumstances. And as a result, Mrs J found herself in a situation where she wasn't able to manage her finances. This was at a time when she was already experiencing severe financial difficulties, and so this caused her additional distress. A payment of £100 for the distress and inconvenience caused should therefore be paid to Mrs J.

my final decision

For the reasons I have given, I have decided to uphold this complaint.

I direct NewDay Ltd to:

- remove the default notice on Mrs J's credit file;
- refund all interest and charges applied to her credit card account other than those that would have been incurred had the credit limit not been increased; and
- pay £100 to Mrs J for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 16 May 2020.

Chantelle Sayles
Ombudsman