

The complaint

Miss H complains that NewDay Ltd trading as Aqua have irresponsibly lent to her.

Miss H is represented by a claims management company in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Miss H herself.

What happened

Miss H was approved for an Aqua credit card in July 2021 with a £450 credit limit. I have detailed the credit limit changes below:

April 2022	£450 to £1,450
July 2022	£1,450 to £2,450
April 2023	£2,450 to £3,950

Miss H says that Aqua irresponsibly lent to her. Miss H made a complaint to Aqua.

Aqua did not uphold Miss H's complaint. They said Miss H told them she was employed with a gross annual salary of £24,000. She had unsecured debt of £3,600 when she applied for the account. Aqua said Miss H had six defaults totalling £1,400 with the last one occurring 30 months before she applied for the account, and she had no active accounts in arrears or payday loans when she applied for the account. Miss H brought her complaint to our service.

Our investigator did not uphold Miss H's complaint. He said the account opening and the first credit limit increase checks were proportionate and a fair lending decision was made. He said at the time of Miss H's second and third limit increases, Aqua should have made further checks based on the credit limit to income ratio, and Miss H's other credit commitments had significantly increased. But he said if Aqua would have requested Miss H's bank statements, they still would have made a fair lending decision by increasing the credit limit. Miss H asked for an ombudsman to review her complaint.

What I've decided – and why

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

I must make Miss H aware that my decision will only focus on the Aqua account she holds with NewDay as this is the only brand she has told us to look into. But I do note that NewDay also assessed an account she held with a different brand in their group as part of their final response letter to Miss H. So if Miss H wants us to consider if the other account was irresponsibly lent to her, she may be able to bring this complaint to our service. But she must do this within six months of the date of her final response letter.

Before agreeing to approve or increase the credit available to Miss H, Aqua needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. There's no prescribed list of checks a lender should make. But the kind of things I

expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Aqua have done and whether I'm persuaded these checks were proportionate.

Acceptance for the Aqua credit card - initial credit limit (£450)

I've looked at what checks Aqua said they did when initially approving Miss H's application. I'll address the credit limit increases later on. Aqua said they looked at information provided by Credit Reference Agencies (CRA's) and information that Miss H had provided before approving her application.

The information showed that Miss H had declared a gross salary of £24,000 and she was employed. But that's not all Aqua's data showed. The data showed that Miss H had active outstanding unsecured balances of £3,600. And she also had six defaults totalling £1,400.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing. Here, Aqua considered the information that Miss H had on her credit history and still made a decision to lend which, in the circumstances, I think was reasonable.

I say this because the last default was registered 30 months prior to Miss H's application. So some time had passed since this was registered. The credit checks showed that Miss H had no County Court Judgements (CCJ's) being reported by the CRA, no payday loans and she had no arrears on any active accounts she held that the CRA they used reported to Aqua.

So I'm satisfied that the checks Aqua carried out here, prior to approving the initial £450 credit limit were proportionate and that Aqua made a fair lending decision to approve Miss H's application.

April 2022 credit limit increase - £450 to £1,450

I've looked at the information available to Aqua when they offered to increase Miss H's credit limit to £1,450 on 28 March 2022 (the change took effect on 1 April 2022). The information that Aqua had available to them from the CRA shows her unsecured debt had risen to £5,877 prior to the credit limit increase. Miss H had incurred a cash advance fee in the month prior to the credit limit being increased. The number of active accounts she had also rose since the Aqua account was open.

But Miss H's Aqua account had been generally well run since it had been opened. She had made repayments totalling from £263.66 in a statement period to £420.80 in a statement period. She was always repaying substantially more than the minimum repayment. So if Miss H had been struggling financially during this time, it would not be proportionate for her to consistently repay significantly higher repayments than the minimum repayment.

The information from the CRA shows Miss H opened no payday loans since her Aqua account had been open, and there were no active accounts showing in arrears prior to the credit limit increase. She was not on any repayment plans on her active accounts either.

So with everything considered I'm persuaded that the checks Aqua carried out prior to approving the credit limit increase to £1,450 were proportionate and that Aqua made a fair lending decision to increase the credit limit to £1,450.

July 2022 credit limit increase - £1,450 to £2,450

I've looked at the information available to Aqua when they increased Miss H's credit limit to £2,450. The information that Aqua had available to them from the CRA shows her unsecured debt had substantially risen, by almost quadrupling since the last credit limit increase, despite this being only a three month period since the last credit limit increase.

Although the data showed Miss H had paid more than her minimum payment again since the last credit limit increase, the data from the CRA shows that Miss H had either missed or was late making a repayment on an account she held.

So based on the late/missed payment and the substantial increase to Miss H's unsecured borrowings since the previous credit limit increase, I'm persuaded that Aqua should have made further checks to ensure that Miss H could afford any increase to her credit limit and it would be sustainable for her.

There's no set way of how Aqua should have made further proportionate checks. One of the things they could have done was to contact Miss H to get an understanding of why she had substantially increased her unsecured borrowings in such a short period of time, and why she missed/was late on a repayment. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Miss H has provided her bank statements for the three months leading up to the July 2022 credit limit increase, which Aqua could have requested as part of a proportionate check. Miss H's bank statements shows her bank account is generally well run.

I say this as the account has regular credits entering the account. In addition to what appears to be salary, there are also state benefits, and cash being credited to the account frequently. The account was not overdrawn during the three months leading up to the credit limit increase, and there was often a three figure credit balance on the account, which suggests that Miss H would be able to afford and sustain repayments for a higher credit limit. The three monthly bank statements show that Miss H's average credit balance was over £540 in two statement periods, and she was over £665 for her average credit balance in the other statement period prior to the credit limit increase.

So if Aqua had requested Miss H's bank statements as part of a proportionate check based on the missed/late payment and the substantial increase to her unsecured borrowings, I'm persuaded they would have seen no signs of financial difficulty, and based on the bank statements they would have still approved the credit limit increase for Miss H. So I'm persuaded that Aqua made a fair lending decision to increase the credit limit to £2,450.

April 2023 credit limit increase - £2,450 to £3,950

I've looked at the information available to Aqua when they increased Miss H's credit limit to £3,950. The information that Aqua had available to them from the CRA shows her unsecured debt was similar to what it had been at the last credit limit increase. But the CRA had reported that Miss H's unsecured debt had fallen each month for the five previous months prior to the credit limit increase to £3,950. This appears to show that Miss H was managing to service her debt, and to be able to afford to reduce her overall balances.

The data also showed that Miss H had not missed any payments on her active accounts or made any late repayments. She still made higher repayments to her Aqua account which would have been more than her minimum repayment.

The data from the CRA also shows Miss H was not fully utilising her credit limits available to her, and the bulk of her unsecured debt was personal loans, and not credit cards, so this outstanding debt should be falling each month. The data showed Miss H hadn't taken out

any payday loans since the last credit limit increase, and she was not on any repayment plans on her active accounts.

So with everything considered I'm persuaded that the checks Aqua carried out prior to approving the credit limit increase to £3,950 were proportionate and that Aqua made a fair lending decision to increase the credit limit to £3,950.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Aqua lent irresponsibly to Miss H or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here. So it follows I don't require Aqua to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 30 September 2024.

Gregory Sloanes
Ombudsman