

The complaint

Miss J complains NewDay Ltd trading as Aqua irresponsibly lent to her.

Miss J 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 J herself.

What happened

Miss J was approved for an Aqua credit card in February 2022 with a £450 credit limit. Miss J says that Aqua irresponsibly lent to her, and she made a complaint to them. Aqua did not uphold Miss J's complaint. Miss J brought her complaint to our service.

Our investigator did not uphold Miss J's complaint. He said the checks Aqua completed showed that Miss J declared a gross annual income of £22,000, and Aqua completed an affordability assessment which showed that Miss J had the disposable income to meet her Aqua repayments. Miss J asked for an ombudsman to review her complaint. She forwarded us her bank statements prior to the account being opened

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.

Before agreeing to approve the credit available to Miss J, 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.

Aqua said they looked at information provided by CRA's and information that Miss J had provided before approving her application. The information showed that Miss J had declared a gross annual income of £22,000. But that's not all Aqua's data showed. The data showed that Miss J had an account which was in arrears when they completed their checks.

While I'm aware Aqua completed an affordability assessment, which the results suggested Miss J would have £539.07 a month disposable income, I wouldn't expect Miss J to be in arrears if she genuinely had £539.07 a month disposable income.

But I'm also mindful that the arrears could have been a genuine oversight on Miss J's behalf. So I'm persuaded that Aqua should have completed further checks to ensure the lending would be affordable and sustainable for Miss J.

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 J to get an understanding of how she was

in arrears on an account. 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 J has provided us with her bank statements for the three months leading up to the account being approved. The bank statements show that Miss J was often overdrawn, and in November 2021, she had a number of returned direct debits, which could indicate financial difficulty.

But it's also clear that Miss J has other accounts with other banks. Miss J told Aqua her annual income was £22,000, but there is no regular income showing on the statements she forwarded our service. There is a payment (£1,540) from what appears to be a university in December 2021, and another payment which appears to be a student loan for £3,785.76 in January 2022. But Miss J transfers large amounts into what appear to be bank accounts she holds with other banks.

So as Miss J makes several transfers to and from other banks, and there is no regular income showing on the bank statements she provided us, the overdraft usage and returned direct debits could be poor mismanagement as opposed to Miss J having financial difficulty.

In order to find out what happened here, and to get a clearer picture of Miss J's finances prior to the application being accepted, I asked Miss J to provide her statements for her other accounts, and further information about her income prior to the lending being approved by Aqua. But Miss J did not respond by the deadline given, even though I extended the deadline for her.

So on the face of it, it does look like Aqua should've looked more closely into this. But as my role is impartial, that means I have to be fair to both sides and although I'm satisfied that Aqua should've done more checks here – I can't say whether further checks would've revealed further information which means they wouldn't have lent. So as Miss J hasn't provided me with her other bank statements, and the further information I asked for, that means that it wouldn't be fair for me to say that Aqua shouldn't have lent here, because I don't know what further checks would reveal.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 14 January 2025.

Gregory Sloanes
Ombudsman