

The complaint

Mr C complains about the phone calls he received from NewDay Ltd trading as Aqua (referred to as the business) enquiring about his exceeded credit limit and missed payment.

Mr C says the unexpected calls caused him anxiety. He would like £300 compensation for the distress and inconvenience caused.

He's also unhappy about the charges applied by the business despite him telling the business that payment is coming.

What happened

Mr C's account was opened on 3 January 2020, and on 20 August 2020 he asked for it to be closed.

At the time he had a balance of £343.90 – which was £43.90 above the agreed limit. The account is currently in arrears.

A statement issued on 11 August 2020 requested payment of £39.90 comprised of his re-payment as well the £21.05 by which he was over. Because the payment wasn't made by 26 August 2020, a late payment fee was also charged to this amount.

Previously Mr C had contacted the business on 4 June 2020 about his account being over the limit, he mentioned that he had been having problems with his bank account and that he also suffered from health issues – anxiety caused by unwanted calls – and would prefer text alerts.

Although the business agreed to refund the over limit fees it failed to address any of Mr C's other concerns. In due course Mr C complained to the business but it didn't uphold his complaint. It said it had dealt with him fairly.

Mr C referred the complaint to our service. It was only after this the business upheld his complaint and offered a refund of the interest and fees charged as well as payment for distress and inconvenience caused. Overall it seems the business accepts that although it tried to help it could've done more to assist.

One of our investigators considered the complaint and thought it should be upheld. In summary, she said:

- The business was correct to uphold the complaint.
- It should've referred Mr C to its Customer Care Team (CCT) – on 4 June 2020 – to help take any necessary action.
- It's right to place a hold on Mr C's account which will stop any further calls being made to his phone – instead he will be contacted by text message. It will also stop any charges or interest being applied to his account.
- Because the account is still in arrears, the business has arranged for an income and expenditure form to be sent to Mr C. But if Mr C is still unable to bring the account up

to date, it will consider a reduced payment arrangement, which is reasonable in the circumstances.

- If Mr C had been referred to the CCT – on 4 June 2020 – and it had been made aware of his vulnerabilities, it would've stopped the calls and arranged a stop on his account then. So, on this basis, the business rightly agreed to refund any charges made after 4 June 2020, made up of the following:
 - £32.33 – for the interest charged between 5 July-11 August 2020, and 13 September 2020.
 - £24 – for the over limit fees between 11 August and 26 August 2020.
 - £12 – late payment fee for 28 August 2020.
 - The £150 compensation offered by way of an apology, and for the distress and inconvenience caused.
 - The overall redress is fair and reasonable in the circumstances.
- If the business hadn't made an offer of compensation, she would've recommended the same.

Mr C disagreed with the investigator's view and asked for an ombudsman's decision. In summary, he made the following points:

- The business didn't mention him wanting to close the account.
- There's no mention of his other complaints against two separate businesses.
- The business couldn't give a timescale about his request for further information.
- He may want to refer his complaint to the parliamentary ombudsman.
- He lives on statutory benefits, not universal credit, so doesn't have a lot of funds. It's also not easy for him to fill out the income and expenditure form and he'll probably need help from his father but doesn't live with him. Shielding during Covid19 has made matters more difficult.
- He hopes to settle his account by Christmas and doesn't want to have anything else with the business.
- Given his overall treatment he'd like us to reconsider a higher payment for distress and inconvenience.

As no agreement has been reached the matter has been passed to me for review.

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.

Having done so, I agree with the investigator's conclusion for much the same reasons. I uphold this complaint – I note it was only upheld by the business *after* it was referred to our service. However, I think the redress offered by the business is fair and reasonable in the circumstances.

Despite what the business says I agree with the investigator that the business should've done more to assist Mr C – when he called on 4 June 2020 – not only to discuss his concerns about his account and refer him to its CCT, but also put practical measures in place to deal with his concerns which it was made aware of by then. It was clear that Mr C was very unhappy about everything that had happened.

However, I'm pleased to see that the business has now put Mr C's account on hold, thus giving him an opportunity to clear any payments and bring his account up to date, before it's closed – if that's indeed what he still wants to do. I've seen nothing to suggest that he

doesn't. The business not specifically mentioning this doesn't mean it's done anything wrong or that Mr C is entitled to more compensation.

I think the business has also rightly offered to refund any late payment fees, interest and over the limit fees, from 4 June 2020, which I think is fair and reasonable in the circumstances. I understand that this is the date by which it should've put his account on hold.

I also understand that the business has agreed to contact Mr C via text in future rather than by phone, taking into account the anxiety that he can experience from receiving unknown/unwanted calls. I understand that this is now very much in line with what Mr C wanted.

Despite what Mr C says, I think the £150 compensation offered for distress and inconvenience – as part of the overall package of redress – is fair and reasonable in the circumstances.

I'm mindful Mr C has undertaken to settle his account by Christmas, but I'm also mindful that we're about to enter another lockdown. So, if for any reason, Mr C is unable to pay what is owed - I'm conscious he's mentioned that filling out the income and expenditure form might be difficult without assistance – he should get back in touch with the business to work out an alternative arrangement. I understand that the business can consider a reduced payment agreement, so I'm sure it'll assist as far as it's able to.

I'm aware that Mr C is unhappy about a data subject access request (DSAR) he made to the business. But this isn't something we can look at in this case because these aren't regulated issues that our service has jurisdiction to investigate. In other words, it's not for me to determine if the business has complied with the DSAR. These issues are better dealt with by the Information Commissioners Office (ICO).

I appreciate Mr C may be disappointed I've reached the same conclusion as the investigator. I realise my decision isn't what he wants to hear. Whilst I appreciate his frustration, I'm unable to give him what he wants.

Putting things right

NewDay Ltd trading as Aqua, should pay Mr C the following redress, if it hasn't done so already:

- £32.33 – for the interest charged between 5 July to 11 August 2020, and 13 September 2020.
- £24 – for the over limit fees between 11 August and 26 August 2020.
- £12 – late payment fee for 28 August 2020.
- £150 compensation by way of an apology and the distress and inconvenience caused.

My final decision

For the reasons set out above, I uphold this complaint.

NewDay Ltd trading as Aqua should pay Mr C redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 December 2020.

Dara Islam
Ombudsman