

The complaint

Mr G complains that NewDay Ltd trading as Aqua defaulted his account and registered the default with credit reference agencies without informing him.

What happened

Mr G had a credit card account with Aqua. He says he experienced financial difficulties in July 2019 after he had to give up his part-time job. He contacted Aqua. He says it agreed he didn't have to make any payments. It told him he could start making payments when he could, and no late fees would be applied to his account.

Mr G says he started working again in January 2020 and made a payment to his account. When he tried to make a further payment in February, he says he couldn't do this because Aqua had defaulted his account and sold it to a third party.

He complained to Aqua. He says he had difficulty getting his complaint logged because it wasn't clear who owned the account.

Aqua investigated his complaint. It said Mr G hadn't made any payments between 4 June 2019 and 7 January 2020. Because no payments had been made for more than 180 days it said it had defaulted the account and sold it to a third party on 28 February 2020. It said this was in line with its terms and conditions, policies and procedures. It also said it had issued a default notice to Mr G on 23 August 2020.

Mr G says he didn't receive a default notice. And he says Aqua's final response letter to him (dated 16 April 2020) referred to a default notice dated 23 August 2020 - which was a future date. So, he complained to our service.

Our investigator looked into his complaint. She said she was satisfied Aqua had sent Mr G various letters about his account including a default notice which was dated 23 August 2019 and a termination letter dated 13 September 2019. Mr G said he hadn't received these, but our investigator said she was satisfied they had been sent to him at the correct address. She said Aqua wasn't responsible if the letters hadn't been received.

Our investigator also said she'd listened to a call between Mr G and Aqua in November 2019. She said Aqua made clear to Mr G that although it had agreed he didn't need to make any payments, it had told him if the account remained in arrears for 180 days it could default and could be sold to a third party. She said Mr G had confirmed during this call that he understood.

Having considered everything, our investigator acknowledged that Mr G had experienced some frustration and inconvenience as a result of what had happened when he raised his complaint. She noted the default notice had been issued in August 2019 and not August 2020 as stated in Aqua's final response letter. But she thought that despite this the complaint should not be upheld.

Mr G didn't agree. He said he'd called Aqua in January 2020 when he'd made his payment and it hadn't told him the account was going to default. He was also adamant he hadn't received the default notice or termination letter from Aqua. He wanted the default removed.

Because Mr G didn't agree the complaint has been passed to me to decide.

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.

Mr G says he started to experience financial difficulties after his part-time work ended. It's not in dispute that he made no payments to Aqua between 5 June 2019 and 6 January 2020. It's also not in dispute that during that period Aqua had agreed it didn't require him to make any payments. It also stopped charging him interest and other charges.

I've looked at the letters which Aqua sent to Mr G during this period. There were several letters setting out the payment arrangement – which was extended on a number of occasions. The payment arrangement was that Mr G would pay £0.00 each month and the interest rate during the period of the plan would be 0%. But although this was described as a payment arrangement the letters included additional important information.

The letters stated that, because Mr G was paying less than 1% of the balance, the account "will continue to be overdue." And regulatory notices would continue to be sent, credit reference agencies would be informed and Aqua could also sell the account. So, although payments had been suspended, arrears continued to accrue on the account.

I've also listened to the telephone call between Aqua and Mr G in November 2019. During this call Aqua explained it was important that Mr G understood certain points. It explained that if the account reached 180 days in arrears there was a risk it could default, and the account could be sold. He was also told that in the meantime the arrangement would be reported to credit reference agencies.

This information was also in line with the other notices which Aqua sent to Mr G. He was sent a default notice dated 23 August 2019 and a termination letter dated 14 September 2019. Mr G says he didn't receive these letters. But Aqua has provided us with a copy of its records which show that both letters were sent to Mr G and they were correctly addressed. So, I'm satisfied the letters were sent. And although Mr G says he didn't get the letters, I agree with our investigator when she said Aqua can't be held responsible for that.

It is the case that Aqua told Mr G in its final response letter it had sent him a default notice dated 23 August 2020. I'm satisfied, having considered all the information that's been provided, Aqua made a typographical error in its final response letter. But I don't think this typographical error alters the fact that the default notice was sent on 23 August 2019.

I can see Aqua sent Mr G a further letter dated 11 December 2019 which warned him it intended to register a default within 28 days. He says he would've expected Aqua to tell him about its intention to default the account when he spoke to it in January 2020. But Aqua hasn't any record of a conversation with Mr G in January 2020 and there's no evidence to support what Mr G says about this conversation.

I'm satisfied Aqua sent Mr G a default notice and termination letter on the dates set out above. I'm also satisfied it told him, during the call in November 2019, the account would be defaulted after it went 180 days in arrears. And, it sent him a further warning in December 2019 to tell him that the default would be registered after 28 days unless the full amount

which was outstanding was repaid in full. Although Mr G made a payment on 7 January 2019 he didn't repay the full amount outstanding.

So, having considered everything here, I agree with our investigator that Aqua didn't do anything wrong when it registered the default with credit reference agencies and sold the account to a third party. I don't require it to remove the default or take any other action.

My final decision

For the reasons given above I do not uphold this complaint about NewDay Ltd trading as Aqua.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 8 December 2020.

Irene Martin
Ombudsman