

The complaint

Mr S is unhappy that NewDay Ltd, trading as Aqua, didn't help him when he informed them of financial difficulties and mental health issues he was struggling with. Mr S is also unhappy that NewDay Ltd, trading as Aqua, recorded a default on his credit file.

What happened

In October 2018, Mr S contacted Aqua and notified them that he was experiencing financial difficulties. Aqua completed an income and expenditure analysis with Mr S and agreed to a three month payment plan at £1 per month with all interest and charges frozen for the duration of that plan.

The next month, in November 2018, Mr S contacted Aqua and asked for the agreed plan to be removed. Mr S then made a payment to Aqua and a direct debit was set up to collect the minimum payments due on Mr S's account moving forwards.

A direct debit payment was received by Aqua in December 2018, but no further payments were received after that, which meant that Mr S's account went into arrears. In March 2019, with the account now several months in arrears, Aqua closed Mr S's account and passed it to a debt collection agency to recover the outstanding balance.

Shortly afterwards, Mr S spoke to Aqua and informed them that he was experiencing mental health problems. Mr S's account was returned to Aqua on the basis that Mr S was considered a vulnerable customer. Aqua's Customer Care Team then sent Mr S a medical pack so that Mr S could provide further information about his ill health. In June 2019, when the medical pack wasn't returned by Mr S, Aqua sent a second medical pack to Mr S, but this also wasn't returned.

As Aqua didn't receive the information they'd requested from Mr S, and because Mr S's account continued to remain in significant arrears, a default was recorded on Mr S's credit file and the account was sold to a debt purchasing company. Mr S wasn't happy about this, so he raised a complaint.

Aqua looked at Mr S's complaint. But they felt that they'd acted positively and sympathetically toward Mr S following his notifying them of difficulties. Aqua also felt that they'd followed the correct process before applying the default on Mr S's account. So, they didn't uphold Mr S's complaint.

Mr S wasn't satisfied with Aqua's response, so he referred his complaint to this service. One of our investigators looked at this complaint, but they also felt that Aqua had responded appropriately upon learning of Mr S's mental health issues, and that Aqua had applied the default fairly. So, they also didn't uphold this complaint.

Mr S remained dissatisfied, so the matter was passed to an ombudsman for a final decision.

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'd like to thank Mr S for the detailed submissions that he's made to this service. I hope that Mr S won't consider it a discourtesy that I won't reply in similar detail here. Rather, I've focused on what I consider to be the key points here so as to arrive at what I feel is a fair and reasonable resolution to this complaint – in line with this service's role as quick and informal dispute resolution service.

If Mr S notes that I haven't addressed a specific point that he's raised, it shouldn't be taken that I haven't considered this point – I can confirm that I've considered all the submissions provided by both Mr S and Aqua – but rather that I don't feel it necessary to address that point directly in order to explain the basis of my final decision.

Mr S feels that Aqua didn't provide him with support when he informed them of the financial difficulties, and later of the mental health issues, that he was struggling with.

When a customer notifies a business that they are experiencing difficulties of any kind, what this service would expect is that the business would react positively and sympathetically to that customer to help them negotiate the difficulties that they've encountered.

Aqua appear to have done that here. In October 2018, when Mr S notified them of the financial difficulty he was experiencing, Aqua took details of Mr S's income and expenditure to verify Mr S's financial position and agreed to a temporary payment plan of £1 per month with all interest and charges frozen for the duration of the plan.

Additionally, in March 2019, when Mr S notified them of the mental health issues he was struggling with, Aqua took back Mr S's account from the debt collection agency and sent Mr S medical packs to enable him to verify the information he'd provided which in turn may have enabled Aqua to apply a tailored payment plan to Mr S's account. Mr S didn't return these medical packs, but I'm satisfied that by receiving Mr S's account from the debt collection agency and sending the packs to Mr S, that Aqua did react positively and sympathetically toward Mr S in this instance.

Mr S is also unhappy that Aqua recorded a default on his credit file. But Aqua only took this course of action after Mr S's account had fallen into significant arrears and after sending Mr S a series of correspondence highlighting these arrears and explaining that his account might be defaulted if no further payments were received. And having reviewed the correspondence sent by Aqua, I'm satisfied that the appropriate process was followed and therefore that the default was applied correctly.

Mr S has stated that he didn't receive several letters from Aqua, including both medical packs mentioned above. But Aqua have been able to demonstrate that the letters were sent to Mr S's correct address. And this service wouldn't hold a business accountable for letters sent but not received by a customer, given that the delivery of sent letters is an activity undertaken by a postal company and therefore one over which a business has no control.

Furthermore, having listened to several recorded telephone calls between Mr S and Aqua, I'm satisfied that Aqua's representatives did explain the ongoing situation clearly to Mr S such that I consider it reasonable to believe that Mr S should have had a clear understanding of the ongoing position of his account, including the potential consequences of continued non-payment toward the account.

And ultimately, there was continued non-payment toward the account. And while I sympathise with the personal and financial difficulties experienced by Mr S, given that Mr S

didn't continue to engage with Aqua following his notifying them of his mental health difficulties, it's difficult to conclude that Aqua have acted unfairly or unreasonably toward Mr S in how they've managed his account, both before and after that point.

This includes the defaulting of Mr S's account and the recording of that default on Mr S's credit file. And it's difficult not to conclude that this default represents a true and accurate record of what took place.

Mr S has stated that he feels that Aqua were discriminating against him. I can appreciate that Mr S may have strong feelings about this matter. But having reviewed all the information and evidence available to me, including the recorded telephone calls, I haven't found any evidence of any discrimination.

Finally, Mr S feels that the level of service he received from Aqua during telephone conversations wasn't of an acceptable standard. How a business speaks to its customers can be an emotive issue, but having listened to recordings of the telephone calls provided to us by Aqua, while I acknowledge that there are moments which could have been handled differently by Aqua's representatives, on balance I don't feel that Mr S was spoken to in a manner such that a payment of compensation would be merited here.

I realise that this won't be the outcome that Mr S was wanting, but it follows that I won't be upholding this complaint or asking Aqua to take any further action at this time. I hope that Mr S can understand, given everything I've explained, why I've made the final decision that I have.

My final decision

My final decision is that I do not uphold this account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 June 2021.

Paul Cooper
Ombudsman