

## **The complaint**

Your text here Ms M says her credit card account with NewDay Ltd trading as Aqua ("Aqua") was cleared by debt consolidation in early July 2020. She says that her direct debit was also taken which resulted in an overpayment but Aqua refused to refund the money back to her bank account. Ms M wants Aqua to compensate her for the distress this caused her.

## **What happened**

Your text here Ms M says her credit card was cleared by debt consolidation in early July 2020. She says that her direct debit was also taken which left her account in credit of £710.02. Ms M spoke with Aqua on 6 July 2020 requesting that her credit card account be closed and asking for the funds in her account to be transferred back to the same bank account which her direct debit had come from. Ms M says she was told to call back the following day to request the refund.

She wrote a letter on 6 July asking for the account to be closed and funds to be credited and called again on 7 July, when she was told the credit would be sent immediately and should be received within 48 hours. Ms M says that she sent emails, none of which were responded to and that she was told on 8 July, 14 July and 20 July that the money had been refunded and would show in her account within 3-5 working days but this didn't happen.

Ms M says that Aqua initially wanted to send the funds back to the third party who had sent the consolidation payment. She says the money was an aggregate from her direct debit and the third party so doesn't think Aqua should decide where the money goes to.

Ms M says that Aqua has now refunded her with the credit into her account and paid her £50 for distress and inconvenience. She says that she would like this offer to be increased considering what Aqua put her through. Ms M says that the situation occurred during lockdown and she was shielding at the time and in financial difficulty so needed her money back. She says the matter is causing her emotional distress and depression.

Aqua says that Ms M contacted it on 6 July, following the payment to the account from the third party on the same day, to ask for the account to be closed and the overpayment transferred to her bank account. As the payment from the third party was still pending and had not yet been cleared, it asked Ms M to call back the following day to arrange the transfer.

Aqua says Ms M contacted it again on 7 July to ask for the credit balance to be refunded. She was asked if the funds had come from her bank account and Ms M confirmed they had and so a transfer request was made on this day and Ms M was told it would take three to five working days to clear. However, when the details of where the funds came from was checked, it was discovered that they had come from a different account to that which Ms M had asked for the credit to be transferred to. As a result of this, Aqua sent Ms M a letter on 8 July asking her to call to discuss the matter.

Aqua says that the balance of Ms M's credit card account on 16 June was £2,477.57, which was the amount later received from the third party. However, before the payment from the

third party was made on 6 July, there was a refund of £1,000 on 19 June and a payment of £100 on 3 July. So it was the payment from the third party on 6 July which took the account into credit, as that was the last payment received.

On 14 July Ms M queried why the funds hadn't been received. It was explained that the transfer had not yet been made due to an outstanding query about where the funds had come from. The agent explained that the account details provided for the transfer were not the same as the source of credit. Ms M said that the credit was as a result of her direct debit going through. The agent asked if the £2,477.57 had come from Ms M's bank and she said yes. As a result, Ms M was told that the transfer would take another three to five working days to reach her account.

On this occasion Ms M had asked for contact details of Aqua's legal team and had been told that there wasn't one and that she would have to contact the Financial Conduct Authority. Aqua says Ms M should have been given the option to speak with its complaints team and has apologised that Ms M was given incorrect information during this call.

On 15 July Ms M contacted Aqua again and confirmed that, whilst she had made a payment by direct debit, the payment of the £2,477.57 had come from a debt consolidation company. As a result of this, she was told it was unable to refund the money back to her bank account as it was not the account where the funds had come from. Aqua says that this was the correct procedure in line with its anti-money laundering obligations, which mean it would normally only transfer funds back to the bank account where they had come from, which was the third party in this case.

On 16 July, Aqua contacted Ms M to say it was looking into whether it could arrange for the funds to be transferred directly to her. The agent said she would call Ms M back once she had a definite answer, although she did not do this.

Aqua says that, due to Ms M's circumstances, it carried out further security checks to confirm her bank account details. Following these checks, Aqua wrote to Ms M on 17 July confirming that the refund had been processed into her account and would be with her within 5 working days.

Aqua says that it was the overpayment from the third party which led to the situation. It has confirmed that the account is now closed with a nil balance. However, it paid Ms M £50 in compensation to apologise for the inconvenience caused as some of its staff did not handle the calls well and gave Ms M incorrect information.

Our investigator looked at this case and concluded that there wasn't enough evidence to say that Aqua had acted unfairly or incorrectly and that the compensation payment it made in relation to the poor service was appropriate. She acknowledged Ms M's frustration at having to make a number of calls to arrange the transfer. However, she found that it was the overpayment from the third party which took Ms M's account balance into credit and Aqua would normally only transfer the funds back to the account that they came from. This was the reason for the delay in transferring the funds and meant Aqua had to conduct further checks on the account in line with its anti-money laundering policy, which wasn't unreasonable.

Ms M disagrees so the case has come to me to make a decision. She says that Aqua transferred the money to her account in the end so she doesn't understand what the delay was for. She also says that she didn't experience these problems with other credit card companies.

## **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 looked at the evidence I share the investigator's view for broadly the same reasons and I'll explain why.

I can see from Ms M's statements that the balance at the end of her June statement was £2,477.57. She received a refund of £1,000 on 19 June followed by some further payments out at the end of June. A further payment of £100 was taken on 3 July by direct debit. This would have left her with a balance of £1,767.55 by the time the third party made a payment of £2,477.57 on 6 July. So, I am satisfied that it was the overpayment from the third party which meant that Ms M's account was put into credit.

When Ms M contacted Aqua on 6 July, this payment had not yet cleared, so Aqua was unable to process a transfer of the overpayment amount back to Ms M and asked her to call back the following day. When she called back on 7 July, Aqua made a request for the credit balance to be transferred back to Ms M. It told her that the funds would take three to five working days to clear. At this point, Ms M had confirmed that the funds had come from her account so there was no reason for Aqua to be concerned as it was under the impression that the funds were going to go back to same account they came from. So I don't think the information given to Ms M by Aqua at this point was misleading.

When the transfer was being processed, it was identified that the overpayment had come from a different account to the one which Ms M had asked the credit to be transferred to. Aqua's normal procedure – in line with its anti-money laundering obligations – was to only transfer funds back to the same account where they came from. In this case, that was the third party. As a result of this, I can see that Aqua sent Ms M a letter on 8 July asking her to contact it.

Aqua, like all UK banks, is strictly regulated and must take certain actions in order to meet its legal and regulatory obligations. Based on what I've seen, I'm satisfied Aqua was acting in line with these obligations when it requested further information from Ms M about the account she wanted the money to be transferred to before it could process her transfer request.

When Ms M contacted Aqua on 14 July to ask why the money had not been received, it was explained that this was due to the issue with the account details for the transfer being different to those from which the overpayment had come from. There appears to have been some confusion as Ms M maintained that the credit had come from her account at this point. Based on this information, she was told that the transfer would take another three to five working days to reach her account. I don't think the information given to Ms M by Aqua at this point was misleading as they were again acting under the false impression that the money was going back to the same account it had come from.

It was only on 15 July that it was established from Ms M that the payment of £2,477.57 had in fact come from a third party. She was told at that point that Aqua would not be able to transfer the money back to her bank account as it was not the account where the funds had come from.

I don't think that Aqua did anything wrong in terms of not processing the transfer by this point as the misunderstanding over where the money had come from was only clarified by Ms M on 15 July. Again, I'm satisfied Aqua was acting in line with its anti-money laundering

obligations in not transferring the money back to a different account without clarifying the source of the funds.

Following this, and in light of the circumstances which had then been established about Ms M's overpayment, Aqua looked into whether it was able to depart from its usual process and transfer the funds back to her account. It needed to do further security checks on her account in order to confirm the details and ensure that it was held solely in her name.

Aqua contacted Ms M the following day, 16 July, to inform her that it was making these enquiries about whether it could transfer the money to her account. It then wrote to her on 17 July confirming that the transfer back to her account had been processed. I can see from the statements that the credit balance refund was applied to Ms M's account on 17 July.

Overall, I don't think that Aqua acted unfairly or incorrectly in terms of processing the refund of the credit balance back to Ms M. It appears that there was initially some confusion in the information provided about where the funds causing the overpayment had come from. But ultimately, the overpayment from the third party was the cause of the credit and Aqua followed its procedures in terms of not refunding this back to a different account initially and requiring further checks to do so, which I think was reasonable.

I also don't think that it took an unreasonable length of time in which to process the transfer back to Ms M's account in the circumstances. The matter was resolved 11 days after the overpayment was made and two days after the circumstances of the overpayment were established by Aqua.

Ms M has also complained about the customer service she received from Aqua. I can see that she made a number of calls to Aqua and I can also see that she was given incorrect information by Aqua and not called back when she was told she would be. Whilst I accept that the service could have been better, Aqua has apologised to Ms M and already provided £50 compensation which I think is reasonable. I am satisfied Aqua's service overall in processing the transfer was appropriate for the reasons set out above.

I know my decision will come as a disappointment to Ms M, but I can't fairly say that Aqua has acted unreasonably in the circumstances of this case. So I won't be asking it to do anything more.

### **My final decision**

Your text here To settle the complaint NewDay Ltd trading as Aqua paid Ms M £50 compensation. I think this is fair in all the circumstances. So I'm not going to ask Aqua to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 19 March 2021.

Rachel Ellis  
**Ombudsman**