

The complaint

Mr P complains that NewDay Ltd trading as Aqua closed and defaulted his credit card account despite asking for help while experiencing financial difficulties.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. In my provisional decision I explained why I didn't intend to uphold Mr P's complaint. I said:

Mr P had an Aqua credit card. Mr P experienced some financial difficulties in 2019 and his account fell into arrears. Aqua sent Mr P arrears notices and in August 2019 he called to discuss options. During the call, Aqua's agent attempted to transfer Mr P to another department in order to discuss options. But Mr P has told us the call wasn't transferred. Aqua says the call was transferred but Mr P had left.

Over the following weeks, Aqua sent Mr P more arrears letters and notices of its intention to close and default his credit card. Mr P says he sent Aqua emails but wasn't contacted further. Aqua says that as no payment arrangement or agreements were reached, it closed and defaulted the account in January 2020. The debt was later sold to another business. Last year, Mr P complained to Aqua and said it had failed to offer a reasonable level of assistance. Aqua didn't agree and said it had no record of receiving a dispute from Mr P about the debt or emails and letters asking for help. Aqua didn't uphold the complaint.

Mr P referred his complaint to this service and it was passed to an investigator. They thought Aqua's decision to close and default the account was reasonable given the arrears. But they also recommended Aqua pay Mr P £100 for the inconvenience caused by not calling him back in August 2019. Aqua didn't accept and asked to appeal. Aqua confirmed that after the call was prematurely ended Mr P failed to call back. It also said there was no record of Mr P asking for assistance by email, letter or any other means. As Aqua asked to appeal, Mr P's complaint has been passed to me to make a decision.

What I've provisionally 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.

I'm sorry to disappoint Mr P but I haven't been persuaded that Aqua acted unfairly in this case. I'll explain why.

Mr P missed some payments and called Aqua in August 2019 to discuss his options. I understand Mr P was being passed to another team at Aqua and was on hold for some time. But, the call recording I've listened to doesn't show he was cut off. I heard Aqua discuss Mr P's account and situation between two members of staff. When the new call handler took over the line it still appeared to be connected. The call handler spent several minutes trying to raise Mr P but ended the call when no response was received.

Our investigator upheld Mr P's complaint and said Aqua should've called him back. Whilst I agree that's a step Aqua could've taken, I think it's also reasonable to say the same of Mr P. He had already called Aqua and whilst I understand calling back would've caused a degree of inconvenience, I think it was clear no arrangement or payment plan had been put in place.

I also think it's reasonable to note that Aqua sent Mr P a default notice around a week later. The notice of default explained Mr P either needed to make a payment by 3 September 2019 or call Aqua to discuss options. I appreciate Mr P had previously done that, but I'm satisfied it was clear that no arrangement or agreement had been put in place when he called. And the default notice made it very clear that his account would close and be defaulted if no payment or contact was received before 3 September 2019.

Mr P has told us he sent emails to Aqua and tried to use its online contact service but didn't receive a response. Mr P hasn't provided us any email evidence that shows his attempts to contact Aqua after his call failed. Aqua has no record of receiving online contact from its website.

Mr P has sent us an email he tried to send to Aqua on 1 August 2019 that bounced back, but that predates the call in question. In addition, Mr P has sent us an email he received from a third party business acting on Aqua's behalf on 12 September 2019 asking him to get in touch. I can see that business gave Mr P a range of options for making contact but none was received.

Whilst I take Mr P's point that he tried to contact Aqua after his call ended in August 2019, I'm satisfied the business continued to contact him about the outstanding arrears and lack of payment plan. I haven't found that Aqua failed to act in a positive and sympathetic manner. I agree with the investigator that it doesn't appear Mr P was in a position to agree a repayment plan that would've prevented the default. I have to take into account that Mr P appears to have been aware his account remained in arrears and that Aqua continued to send monthly statements until January 2020. No payments were received for an extended period and I'm satisfied Aqua's decision to close and default the account was fair and reasonable.

I'm sorry to disappoint Mr P but for me to award compensation I'd have to be satisfied that Aqua made an error that unreasonably impacted his situation. In this case, whilst Aqua could've called Mr P back I think it's fair to say that's a step he could also have taken. And Aqua has provided a substantial level of evidence to show it continued to correspond with Mr P about his account and the arrears after the call took place. Ultimately as the arrears weren't cleared and continued to accrue I'm satisfied Aqua took a fair decision to close and default the credit card, in line with the terms. I'm afraid I haven't found grounds to award compensation to Mr P in this case.

I invited both parties to respond with any new comments or information they wanted me to consider before I made my final decision. Aqua responded and said it accepted my provisional decision.

Mr P responded and said that after his call was cut off he felt discouraged to call again. Mr P also said Aqua had his full contact details and could've done more to get in touch, beyond sending him letters. Mr P said he had held his account for 18 months before it was closed and defaulted and feels there was a disproportionate level of responsibility placed on him as the borrower to make contact with Aqua and discuss his account. Mr P has explained he wants Aqua to remove the default and allow him to repay the outstanding balance.

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.

I've considered Mr P's comments and points he's raised. As I said in my provisional decision, I didn't find Aqua had cut Mr P off when he called. And whilst Aqua could've called Mr P back, I also think it's fair to say he could've done the same. I still think that's the case.

After the call was ended, Aqua continued to keep Mr P updated with information about what was happening with his credit card. Aqua sent Mr P letters it's required to provide under the rules setting out its intention to close his account and report a default. Aqua also continued to send Mr P statements showing the status of his credit card. I remain satisfied that Aqua sent Mr P clear information about the outstanding balance, status of his account and its intention to close and default the credit card.

Mr P has pointed out my provisional decision didn't mention his offer to reinstate the account and repay it. But the account was closed and defaulted, after no payment arrangement was agreed. Businesses have to report accurate information about how accounts were managed, and I'm satisfied Aqua has done that in this case. I haven't found grounds to tell Aqua to remove the default from Mr P's credit file.

I'm very sorry to disappoint Mr P but I still think Aqua's decision to close and default his account was reasonable, for the same reasons I set out in my provisional decision. As I haven't found that Aqua made a mistake or treated Mr P unfairly I'm not telling it to take any further action.

My final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 5 August 2021.

Marco Manente
Ombudsman