

The complaint

Mr H complains that he didn't get any support from NewDay Ltd trading as Aqua (Aqua) and they registered a default against him.

What happened

Mr H had a credit card with Aqua. In January 2019, he had a limit of £7,550 and the balance was £4,797. Contractual minimum monthly payments were then around £193 (depending on the balance). He was in financial difficulty and Aqua agreed to reduced minimum monthly payments of £130. Interest and fees were suspended. Mr H made the payments through 2019 until the payment of £130 in January 2020. No payment was made in February 2020 and March 2020, until the last payment received by Aqua – on 1 April 2020.

Aqua agreed a two-month payment holiday for April 2020 and May 2020. Interest was still suspended. The payment holiday came to an end but no payments were then received after that. On 25 June 2020, Aqua sent a Notice of Default – stating the arrears were then £260. On 17 July 2020, Aqua wrote to Mr H to terminate the card. On 13 October 2020, Aqua wrote to Mr H to say that they were registering a default with credit reference agencies (CRA). The debt was sold to a debt collection agency (DCA) in December 2020.

Mr H complained. He said Aqua hadn't treated him fairly. They'd not given him any support, nor warned him that they were to default him. He'd been ill with Covid and had suffered family and friends' bereavements. The default was now impacting his employment and his ability to get credit.

Aqua said they'd agreed a payment plan in January 2019 – for payments of £130 a month. These payments were made by Mr H through 2019 but stopped late in 2019. He made one more payment in April 2020. They agreed a two-month payment holiday in April 2020. They'd tried to call Mr H in February 2020, without success. They also sent several other letters about his account and asked him to call – but he hadn't. They did get a call on 2 July 2020, when Mr H said he'd resume payments in August 2020 – but no payments were made. So, they took the decision to close his account and pass it to a debt collection agency (DCA) in November 2020. The default registered by Aqua had been removed and replaced by a default applied by the DCA – as Mr H then owed them the money.

Mr H brought his complaint to us. Our investigator considered that Aqua acted fairly. They'd supported Mr H with a payment plan from January 2019, on an interest free basis. They'd given him a payment holiday in April 2020. And when that expired, Mr H hadn't resumed the payments of £130 a month. She saw that Aqua had communicated several times with Mr H throughout. They'd written to him on several occasions and tried to speak to him, but without success. She felt that Aqua's actions to default Mr H's account were fair.

Mr H didn't agree and asked that his complaint be looked at by an ombudsman.

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 H has complained that he didn't get support from Aqua when he was in financial difficulty. And when he was later affected by Covid, they should have been more supportive at that time – in line with government guidance. He said he wasn't aware that Aqua were going to default him, and says he made a number of attempts to try to speak to them about his situation. He therefore feels that the default should be removed, and all interest and fees refunded.

When a customer is in financial difficulty, there is industry guidance as to what a firm might do to help. Businesses have an obligation to treat customers in financial difficulty sympathetically and the Financial Conduct Authority (FCA) says that businesses like Aqua should treat customers in difficulties with forbearance and due consideration. For example, a business might suspend or waive interest, accept lower payments or defer them, and allow customers more time to repay their debt. So – I've considered Mr H's complaint in this light.

I can see he told Aqua that he was in difficulty in January 2019. And then – Aqua went through Mr H's income and expenditure and agreed a payment plan for him – with reduced payments of £130 a month, with no interest or fees to be paid. Mr H made these payments through 2019, with one payment of £130 then made in January 2020. So, in 2019, it seems clear that Aqua did help Mr H – and in particular, I can see they charged zero interest and fees on his card from January 2019 through until when the default occurred in October 2020. So – that must have been a considerable help to him.

In March 2020, The Financial Conduct Authority (FCA) announced guidance to lenders in response to the effects on customers of the COVID-19 pandemic. All lenders, including Aqua, had to put in place 'payment holidays' on many credit agreements, including credit cards – to help customers who were affected. Customers could ask for a total of two payment holidays, each of three months – whereby payments could be suspended. Missed payments would not be reported to credit reference agencies, although interest would still be debited to the accounts. This support was provided by firms up to the end of October 2020.

In line with this Aqua then agreed a payment holiday for Mr H for April 2020 to May 2020 – so he made no payments for those months. I can see that Aqua wrote to him on 1 April 2020 to outline the arrangement. The letter said no payments were due to be made – and it also said, "*When your payment holiday ends, you will have to start to make at least your contractual minimum monthly payment again.*" At that time, Mr H's balance was £3,207 and the limit was £5,350.

Aqua wrote to Mr H again on 5 June 2020 to say the payment holiday was coming to an end on 15 June 2020 and "*From 15th June 2020 your contractual minimum payment will be calculated in accordance with the section 'How is your contractual minimum payment calculated?' of your credit agreement... This means that you will need to start making at least your minimum monthly payment again by the date shown on your next statement.... Any payments that were already due before your payment holiday began will become immediately payable on 15th June 2020.*" So – I think it was clear what was going to happen then.

The letter also asked Mr H to get in touch if he needed more help as it said "*What happens if I can't pay? If you're finding it hard to pay, call us and we can work with you to find a solution.*" There's no record of Mr H getting in touch then. If he had, Aqua could've considered a further payment holiday for him.

I can then see that no payments were made by Mr H in June 2020 – and Aqua wrote to him on 25 June 2020, with a Notice of Default – stating the arrears were then £260, and those

had to be paid by 16 July 2020. But Mr H didn't pay anything and so on 17 July 2020, Aqua wrote to Mr H to terminate the card. This letter also asked Mr H to get in touch – it said *“What should I do?...Call us and we'll take details of your income and outgoings to work out an affordable repayment amount”* But – I can't see that Mr H did contact Aqua.

On 13 October 2020, Aqua wrote to Mr H to say that they were registering a default with credit reference agencies. This letter said *“This letter is notice of our intention to register information about the default on your account with credit reference agencies. We will do so at any time after 28 days from the date of this letter....This will stay on your file for six years and may make it harder for you to get credit in the future...What does this mean for me?...Credit reference agency files are used to assess credit applications. The default will stay on your file for six years and may make it harder for you to get credit in future...We may now also sell your debt to another company so it's important that you call us as soon as possible.”* I can't see that Mr H contacted Aqua – and the letter made it clear about the affect on Mr H's credit file, and that the debt would be passed to a DCA.

Mr H has said that he asked Aqua for help and support but it wasn't forthcoming – but I think that given the payment plan that Aqua agreed, on an interest free and charges free basis – which ran for 18 months from January 2019 – I think they did help. And Aqua also agreed a payment holiday in April 2020. And as I've set out, Aqua were clear in their communications about the payment plans, payment holiday and the consequences of non – payment.

I've also gone on to consider the other communications from Aqua. They wrote to Mr H in April 2019, September 2019 and February 2020 asking that Mr H call them. On two occasions - in September 2019 and February 2020, I can see that they arranged to call Mr H and did so – without getting through. So, they did try to speak to him. I can see that Mr H contacted Aqua on 2 July 2020 and said he would pay the monthly payments starting in August 2020 – but these weren't paid. I've gone through Aqua's records and found no other calls or emails from Mr H to them. I've also gone through Mr H's statements and they set out the position on his accounts monthly.

I was sorry to hear of Mr H's illnesses and his personal circumstances. But – having looked at what happened in some detail, I don't think I can say that Aqua acted unreasonably or unfairly. And so – while this will be disappointing for Mr H, I won't be asking them to do anymore here. I'd encourage Mr H to get in touch with the DCA to agree a payment programme. And alongside that, he might also consider asking for free debt advice from a debt advice charity.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 May 2022.

Martin Lord
Ombudsman