

The complaint

Mr H has complained that he was unable to use his credit card provided by NewDay Limited trading as Aqua ("Aqua"), which ultimately led to the account being closed.

What happened

In March 2023, Aqua wrote to Mr H to say that as he hadn't used his credit card for some time, they intended to close the account. The letter explained that if he didn't want this to happen, he could use the card before 4 June 2023 to make a purchase, and the account would remain open.

Mr H has told us that he attempted to use the card, but it didn't work. He was presented with an error message and asked to contact his card supplier. He raised a complaint with Aqua in April 2023, but he didn't receive an answer to his complaint within eight weeks, so he brought his complaint to our service.

An investigator here investigated the complaint but didn't uphold it. They said that they could see that Mr H had been supplied with a replacement card in 2021, along with details about how to activate that card. But the card had never been activated, and this meant it didn't work when he tried to use it in 2023.

When the card didn't work, Mr H hadn't contacted Aqua's customer service team but instead raised a complaint about it not working. Unfortunately, Aqua's complaints team have confirmed that this complaint was mis-filed, so they hadn't answered it, meaning the account was closed as Mr H had no other contact with Aqua to discuss or resolve things. If this hadn't been the case, they might have been able to resolve things with Mr H. But the investigator explained that as this was a failing in Aqua's complaint handling process, we don't have the jurisdiction to make findings about complaint handling.

The investigator explained that if Mr H had reached out to Aqua's customer services team as suggested, they may have been able to resolve things with him. But as he hadn't done this, the account had gone on to be closed. And how Aqua had handled his complaint wasn't an issue that we could make a finding on. So, we couldn't uphold the complaint on that basis.

Mr H disagreed and asked for an Ombudsman to make a final decision. He felt that the investigator hadn't quite understood his complaint and said that due to an issue with a third party complaints portal he used, we hadn't considered all his evidence. He also said that Aqua didn't respond to his emails.

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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Aqua have a process for security whereby customers need to activate a new card when it's sent to them. In considering this complaint, I am thinking about whether Mr H was told he needed to activate the card when he was sent it, and also whether the methods of activating it are reasonable and fair to all consumers.

Alongside this, I am considering how Aqua treated Mr H in 2023 when he began to have problems. When he found he couldn't use the card, was he treated fairly in his attempts to resolve things.

I've thought about Mr H's comments about difficulties in emailing Aqua, as well as problems he suggests are happening between the third party complaint portal he uses and our service. But I haven't seen any evidence of any general communications being ignored by Aqua, and Mr H has had the opportunity to send us any additional evidence he feels hadn't been considered.

I've also considered Aqua's processes for activating a new card. The letters they send confirm they will have emailed him the details to allow him to set an account up and activate the card and run his account online. This is alongside the phone numbers they gave him when they told him the card hadn't yet been activated in March 2023. I think this is fair and gives customers a fair range of options by which to activate their card. I haven't seen any reason why Mr H couldn't have done this.

However, I do empathise with Mr H here. Mr H has tried to contact Aqua in 2023 when having problems, but he's done this by raising it as a complaint through the third party complaint portal, rather than trying to contact the customer service team at Aqua directly to ask why it wasn't working. If he had reached out to them, they could have arranged with him to activate the card.

Unfortunately, because that complaint has been missed by Aqua, by the time this has come to light, and he's brought the complaint to our service, the card account had already passed the deadline to be used or closed and was closed. Even if Aqua had picked the complaint up and answered it, with an eight week timescale in which to do this, it might always have been too late to resolve things. As it is, the complaint was unfortunately mis-filed and not answered.

But as the investigator here explained, that's a potential failing in Aqua's complaint handling process, which isn't something we have the jurisdiction to make a finding about. From a general customer service perspective, I'm satisfied that had Mr H reached out to Aqua customer services, to ask how to resolve the issue, they'd have been able to get things sorted with Mr H. And if I consider what's reasonable here, I wouldn't expect a customer, when faced with a fairly urgent issue that needs resolving with a business, to raise a complaint about it and then wait eight weeks for an answer.

Mr H is comfortable using the third party complaints portal to raise issues with businesses or refer them to our service. But in these circumstances, I also have to consider whether that's a fair way to communicate with a business about a time sensitive issue. And if this process falls down for some reason, whether that means the business have fallen below the standards required of them.

This is an unfortunate set of circumstances. I'm sure that if the complaint had been registered correctly, Mr H could potentially have had the complaint looked at, and it could have been referred to Aqua customer services in time to remedy things and register the card. But as has been said already, I can't make a finding that says that a failing in the complaint handling process means this complaint should be upheld. We don't have the jurisdiction to make findings about a business's complaint handling, and that's the only

potential failing here.

Equally, I don't think that would be fair to Aqua. Mr H has been provided with information to allow him to register the card online or by phone. He hasn't done either, instead choosing to raise an online complaint to try to get this resolved. That complaint was raised at a time when it was approaching the deadline to register the card, so I don't think it would be fair to say that any delay in answering that complaint means the complaint itself should be upheld.

Mr H had approximately two years to register the card, and at least two reminders during that time, but didn't do this. He's told us that the account being closed caused him problems as he wanted to use the card for spending, but it had been closed. But as I don't feel Aqua have done anything wrong here, I can't hold them responsible for any knock on effects. I empathise if Mr H had wanted to use the card for spending, but he needed to have registered the card to allow this, and he didn't do that.

Mr H asked us to get Aqua to re-open the account for him, but as they haven't done anything wrong here, I won't be asking Aqua to do anything further. If he wants a credit card account with them, he will need to re-apply for a new card.

My final decision

I am not upholding 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 January 2024.

Paul Cronin
Ombudsman