

The complaint

Mr M complains about several service issues concerning NewDay Ltd trading as Aqua (Aqua).

What happened

Mr M has a credit card from Aqua. In November 2023, several things caused him to complain.

He tried to make a payment with his card but found it had been blocked.

He asked for a data subject access request (SAR).

He made a number of calls to Aqua.

Mr M complained for a number of reasons:

- That Aqua blocked his card because he was vulnerable. On 22 November 2023, a payment for 95p was declined. He advised Aqua of this in 2020 and says this was being held against him.
- On the calls, he says Aqua's call handlers were not sympathetic to his vulnerabilities.
- The SAR still hadn't been provided to him and Aqua hadn't therefore complied with the requirement that it is sent within 31 days.

In December 2023, Aqua said:

- The SAR was provided to Mr M via Egress (the information sharing portal) between 13 November 2023 and 16 November 2023.
- Aqua said some of the service given to Mr M on the calls wasn't as they'd wish it to be:
 - o The bank hadn't properly recorded where Mr M wanted the agreed compensation to be paid, and this needed to be repeated by him again.
 - o On one of the calls, the call handler came across as abrupt when he tried to interject.
 - o When one call was transferred to the complaints team, it wasn't successfully done and so Mr M had to repeat security details again. When another call was transferred, the receiving member of staff made some inappropriate comments before the call was transferred.
 - o They gave him inaccurate information as to how long the agreed compensation would take to be paid.

- Aqua accepted the bank incorrectly placed 'breathing space' on Mr M's card on 20 November 2023 – which caused his card to be declined.
- But Aqua said they found the calls generally were handled empathetically and professionally. And equally, Mr M had made some inappropriate comments to call handlers, and offensive behaviour wouldn't be tolerated.
- Because of some of the service failings on the calls, Aqua paid compensation of £300.

Mr M brought his complaint to us. Our investigator said:

Breathing space: Aqua accepted they made an error in incorrectly applying breathing space on Mr M's card.

Calls: he agreed that some of the information given to Mr M on the calls wasn't always accurate.

On both the complaint points, Aqua had apologised and paid compensation of £300 – which was the right thing to do.

SAR request: he was satisfied that Aqua had sent the information to Egress and then advised Mr M to access the sharing portal to view the information. He could see that on 14 November 2023, access was granted to Mr M's email address. And on 16 November 2023, a member of Aqua's staff had checked the Egress information – so the files weren't corrupted. He discussed processes with Egress and they said the reports confirmed that the files had been read.

He had also seen a letter from the Information Commissioners Office (ICO) – which confirmed Aqua had dealt with the request satisfactorily.

Mr M didn't agree and asked that an ombudsman look at his complaint, and so it has come to me to make 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.

I've seen Mr M's comments to our investigator – so let me say at the outset that we are not a consumer group – we don't take sides. We are independent and impartial and our role is to listen to both sides of a complaint, take evidence from both parties, and then decide on a fair and reasonable outcome.

Mr M has also raised again that he hasn't received the information he requested under a previous SAR in April 2023 and July 2023. Let me be clear here – this was addressed in a previous complaint to our service and Mr M accepted compensation of £150, and the complaint was closed. I know Mr M continues to say he hasn't received the information, but as far as our service is concerned, the previous complaint is closed and won't be reopened.

I want to assure Mr M that I've reviewed his complaint thoroughly and I consider that Aqua have acted reasonably in dealing with his complaints. Having read Mr M's file and his comments, I think it's likely that he won't accept my decision, but this decision is final and marks the end of our process.

Looking at Mr M's complaint:

Breathing space applied to Mr M's card and calls:

Aqua accepted that they shouldn't have applied a breathing space to Mr M's card on 20 November 2023 and apologised. It was removed as soon as Mr M called Aqua later in the month. But a payment of 95p had been declined as a result. I'm sure that this was embarrassing and frustrating for Mr M. But equally, Aqua apologised and removed the marker on his account.

Mr M says his card was so marked because he was vulnerable. I reviewed this – and went through the contact notes made by Aqua at the time. And – there's no suggestion this was the reason. Aqua's notes say that the call handler was concerned about Mr M's health and referred his account to a manager. There's nothing more recorded. So, there's nothing to explain why the block was applied.

So – I can't reasonably conclude the block was placed on his account for reason of his vulnerability. So – I hope Mr M will be satisfied that someone acting independently has looked at this and found that Aqua didn't place a block on his card because of that.

I listened to 11 calls between Mr M and Aqua in November 2023. Aqua have accepted that some of the information given to Mr M was wrong or misleading. But as I've said, my role is to take an independent and impartial view of what happened.

I must say that I found Aqua's call handlers to be patient and empathetic. The calls were long – most were between 30 minutes and an hour, and one was for more than two hours. The call handlers listened patiently to Mr M's points. I accept that on some of the calls - they tried to interrupt him after a while but did this in a manner which was polite and not rude.

And - it's also fair to say that even accepting Mr M's frustrations, his manner was aggressive – and he didn't allow Aqua's call handlers to consider his points easily, or to give him any information. Mr M said on many occasions he was vulnerable – and I consider Aqua's call handlers dealt with him in a manner which respected that.

Aqua accepted their error in blocking Mr M's card and for some misinformation on the calls and paid compensation of £300 – which was a reasonable thing to do in the circumstances.

SAR request:

Mr M asked for a SAR in November 2023. He says he's not received the records he asked for. We asked Aqua what happened. To be clear, the process here is:

- 'Egress' is a cloud security platform for secure document sharing and handling, which Aqua uploads the files to. These then become available for Mr M to access once he'd registered with Egress.
- Aqua send a notification email to Mr M to advise that files have been uploaded for him to view through Egress. He is invited to open the files in Egress.

I looked closely at what happened. I can see evidence that Aqua advised Mr M of the Egress link (sent to his email address) four times on 13 November 2023. This said 'a file has been sent to you securely using Egress'. Mr M then had to click on the link to access his SAR information.

Aqua showed us screenshots of the log showing what happened. This shows that on 14 November 2023, at 12.40pm, Egress access was granted to Mr M's email address. It also shows that reports were delivered to the email address at the same time.

Aqua also looked at the link and documents on 16 November 2023 – and accessed the documents. So – there isn't any question of the data being corrupted in any way.

Mr M has argued at length that he hasn't had the information. But - I am satisfied that the evidence shows that Aqua provided the SAR information to Mr M, and he accessed this on 14 November 2023. This was also within the statutory 31-day period – so it wasn't provided late as Mr M has argued.

Mr M has suggested there may have been a problem with his email provider. We've asked him for evidence of that, but he hasn't provided this.

I can only look at whether Aqua did what they were expected to do – and the bank did. If there was a problem with Mr M's email – I can't reasonably hold Aqua responsible for that. And in any case, the evidence says Mr M accessed the SAR information successfully from his email address.

Mr M has argued passionately in support of his complaint, which I appreciate. But having looked at all the evidence here, I'm satisfied that Aqua acted reasonably, and I am not asking them to do anything more here than they already have – as they've paid compensation of £300, which I consider is reasonable.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 May 2024.

Martin Lord
Ombudsman