

The complaint

Mr B is unhappy that a debt he owed under a credit card provided by NewDay Ltd trading as Aqua was sold to a third-party debt collection agency ('DCA').

What happened

Mr B opened a credit card account with Aqua on 21 May 2019. In 2021, Mr B advised Aqua of a change in his circumstances that was causing him financial difficulties. So, a reduced payment arrangement was put in place. In January 2022, Mr B advised Aqua that he could no longer maintain the arranged payments, and they suspended interest and charges.

On 23 February 2022, Aqua issued a default notice, asking Mr B to pay £71.46 by 16 March 2022. They advised him that, if payment was not made by that date, they would terminate the agreement and the full balance of £1,145.70 would then be payable. Mr B didn't make the payment, and Aqua terminated the agreement on 16 March 2022.

Aqua wrote to Mr B in June 2022, again advising of their intention to issue a default, and asking Mr B to pay £140.22 by 3 August 2022 to avoid this. He didn't and the default was registered. Mr B then paid the requested £140.22 on 13 August 2022; however, this was too late and the whole outstanding balance was due.

As Aqua had recorded Mr B as being a vulnerable consumer, they didn't take any actions to chase him for the outstanding amount. In 2024, Aqua made a business decision to sell various vulnerable customer's accounts, including Mr B's, to a third party DCA. This sale took place on 6 November 2024.

Mr B complained to Aqua after the DCA requested he pay the £1,005.48 outstanding on his account. He believed the £140.22 he'd paid on 13 August 2022 settled the account in full, and no further payments were required. He also asked for copies of the calls he'd had with Aqua in 2022.

Aqua responded to Mr B's complaint on 14 January 2025, but they didn't uphold it. Unhappy with this response, Mr B brought the matter to the Financial Ombudsman Service for investigation.

Our investigator thought that Aqua had acted reasonably with the way they'd dealt with Mr B's account, including the default and termination, and the sale to the DCA. They thought Mr B was made reasonably aware of how much he owed Aqua, and there was nothing to indicate that the £140.22 Mr B paid in August 2022 was in full and final settlement of the outstanding debt.

However, the investigator didn't think Aqua had acted reasonably in relation to providing Mr B the calls he'd requested. Aqua had said they only kept calls for 13-months, but had been able to provide some, but not all, of the calls that occurred more than 13-months previously. The investigator didn't think Aqua had properly explained to Mr B that they were unable to locate certain calls, and they set expectations that Mr B would receive copies of the calls.

So, the investigator thought Aqua should pay Mr B £100 compensation for the inconvenience he'd been caused.

Aqua didn't agree with the investigator's opinion. They said they don't record every call, so not all calls would be able to be provided, even within their 13-month retention period. They also explained that, outside of the 13-month period, if a call could be traced, then it would be provided.

Aqua went on to say that, in their complaint response letter, they told Mr B they weren't able to locate a copy of the call of 13 August 2022, but they would provide him with copies of all the calls they were able to trace. And they provided evidence these calls had been sent to Mr B on 10 and 12 February 2025 – although their records indicated that Mr B hadn't accessed these calls.

Based on this additional evidence, the investigator revised their opinion. They thought Aqua had acted reasonably so they didn't need to take any further action, including paying Mr B the £100 previously recommended.

Mr B didn't agree with the investigator's revised opinion. He said he never received the calls Aqua sent in February 2025, so he thought they should still pay him the £100 originally recommended. Because Mr B didn't agree, this matter has been passed to me to decide.

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. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

Before I explain why I've reached my decision, I think it's extremely important for me to set out exactly what I've been able to consider here. Aqua has sold the account to the DCA, who are a separately regulated financial business. As such, my decision will only consider the actions of Aqua, and not the DCA. If Mr B remains unhappy with the actions of the DCA, he will need to raise this as a separate complaint with them directly.

The regulator, the Financial Conduct Authority, has issued a set of rules as to how it expects financial businesses to operate. These are known as CONC, and they deal with the treatment of customers in arrears or default. Specifically, CONC 7.3.4 says *"a firm must treat customers in or approaching arrears or in default with forbearance and due consideration."*

Having considered the evidence, looking at the time Mr B was in arrears and the likelihood of him being able to maintain full payments and repay the outstanding balance in a reasonable period of time, I'm satisfied Aqua acted reasonably by both terminating and defaulting the agreement. In addition, due to Mr B's vulnerabilities, I'm also satisfied they acted reasonably by choosing not to regularly chase him for the outstanding balance.

Given this, I'm satisfied that Aqua treated Mr B with forbearance and due consideration. However, this doesn't mean that the outstanding balance didn't remain due, nor that Aqua weren't able to sell the debt to a third-party DCA.

Around the time of the default Aqua wrote to Mr B, explaining that he owed in excess of £1,000. And, while Mr B paid £140.22 in August 2022, I haven't seen anything that shows me Aqua asked him to pay this amount *in full and final settlement* of the outstanding balance. As such, I'm satisfied that any reasonable person would be aware that there was an amount still to pay – even if they weren't being charged interest on this amount or chased for payments. Therefore, I've seen nothing to show me that the amount Aqua told the DCA was outstanding was incorrect.

Turning to the call transcripts, Aqua aren't obliged to record every call and keep these call recordings indefinitely. So, I can't say they've done anything wrong by not being able to supply Mr B with copies of certain calls, no matter how suspicious he believes this is.

Aqua have traced some calls, and they explained in their final complaint response letter of 14 January 2025 which calls couldn't be traced. I've also seen evidence they sent these calls to Mr B in February 2025. Given this, and while I appreciate this will come as a disappointment to Mr B, I can't agree Aqua have done anything wrong, so I won't be asking them to compensate Mr B for failing to provide the calls.

However, If Mr B still hasn't received these calls, I would expect Aqua to both resend them to him and follow this up to ensure they have been received and that he can access them.

My final decision

For the reasons explained, I don't uphold Mr B's complaint about NewDay Ltd trading as Aqua.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 September 2025.

Andrew Burford
Ombudsman