

The complaint

Mr H is unhappy that NewDay Ltd trading as Aqua required him to call them to remove a temporary suspension on his account.

What happened

The complaint circumstances are well known to both parties, so I don't intend to list this chronologically and in detail. However, to summarise, Mr H had a credit card account with NewDay. On 4 August 2025, NewDay placed a temporary seven-day suspension on the account, following an attempted transaction. NewDay's process required them to speak to Mr H to remove the suspension within the seven-day period, and they sent him an SMS message the same day, asking him to call them.

Mr H contacted NewDay through their webchat function on 7 August 2025, asking for an email address for the fraud team. NewDay explained that there was no email address available for him to remove the suspension, and he would need to call them. Mr H then emailed NewDay, explaining that, due to a disability, he was unable to call them, and asked for *"a secure, written method of communication with the appropriate department."*

In response, the following day, NewDay offered a service which allowed Mr H to contact them through a third-party app – Mr H would type his questions or responses, an assistant would relay these to NewDay and type NewDay's responses so that Mr H could read them and respond in writing through the app. This solution wouldn't require Mr H to make a phone call or speak to anyone. NewDay also said that Mr H could authorise a third party to act on his behalf, and they would be able to call NewDay instead.

However, Mr H didn't think these were suitable solutions as the third-party app was primarily designed for people with a different disability. So, he brought his complaint to the Financial Ombudsman Service for investigation. It's my understanding that the suspension was automatically lifted on 11 August 2025

Our investigator explained that we were not able to determine whether NewDay had breached the Equality Act 2010, and this could only be decided by a court. However, they thought NewDay had acted reasonably by offering Mr H a secure, written means of communicating with them the day after he advised them of his disability. And, while Mr H doesn't feel this was a suitable adjustment, he didn't advise NewDay of this. So, the investigator didn't think NewDay had acted unfairly.

Mr H didn't agree with the investigator's opinion, providing extensive comments as to why. In summary:

1. The Equality Act imposes an anticipatory duty on service providers, and Mr H didn't think NewDay had complied with that duty.
2. The suggested solution put forward by NewDay was only a suggestion, and not a reasonable adjustment. This solution still requires the initiation, real-time management, and engagement associated with a live telephone interaction, and is designed for people with different disabilities. As such, this was not a suitable option.

3. The Financial Ombudsman Service had failed to discharge its duty under the Equality Act by upholding an exclusionary policy.
4. The investigator's opinion was unfair and unreasonable.
5. The timeline relied upon was incorrect, and Mr H actually made NewDay aware of his disability on 7 August 2025, after which they still insisted on a telephone call.

As such, Mr H wanted an Ombudsman to apply the correct legal tests, require NewDay to explain why they have no non-phone option and why they refused to deal with this matter in writing, and to direct NewDay to change their processes.

As Mr H didn't agree with the investigator's opinion, 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.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr H was supplied with a credit card by NewDay. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

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. Mr H believes NewDay have breached the Equality Act by failing to have reasonable adjustments in place to deal with customers who are unable to use the phone. However, as the investigator has explained, only the courts are able to determine whether the Equality Act has been breached.

Mr H would also like me to direct NewDay to change their processes. Our jurisdiction does not allow us to do this, and a direction to change a process can only be made by the regulator – the Financial Conduct Authority.

What's more, I also need to consider what adjustments are reasonable, and that Mr H's preferred solution may not be considered reasonable under the Equality Act when all relevant factors are taken into consideration.

Therefore, I shall only be considering whether NewDay acted fairly and reasonably in the circumstances. Which I think they did, and I'll explain why.

Mr H has a medical condition that means he's unable to use the phone. As such, he requires a reasonable adjustment to allow him to contact service providers, in this instance NewDay, in instances where a phone call would usually take place – as Mr H has explained, he needs a secure written method of communication.

After a temporary suspension was put on his card on 4 August 2025, Mr H contacted NewDay through their webchat function, asking for assistance. I've seen this webchat, and I've also seen that NewDay have provided Mr H with this as well. In summary, Mr H

contacted NewDay about the block on his account, and asked for an email address, rather than a telephone number, for the team he needed to speak to. In response, NewDay advised him that there was no email address he could use to remove the block, and that he would need to call.

Following this, Mr H raised a complaint with NewDay, advising them of his needs, and asking for a reasonable adjustment. NewDay responded to this complaint the following day, offering Mr H two alternatives – contact through the third-party app or authorising a third-party to speak to NewDay on his behalf.

Based on what I've seen, I can't agree with Mr H that NewDay insisted that he still call them, even after he'd asked for a reasonable adjustment. There is nothing within the webchat where Mr H either advised NewDay he was unable to call, or where he asked for a reasonable adjustment. All he did was ask for an email address, and I don't think it would be reasonable for NewDay to infer from this request that Mr H was unable to contact them by phone – a request for an email address could be made for any number of reasons and it could be considered discriminatory if NewDay assumed that such a request must only have been made because the requestor was disabled.

When Mr H asked for a reasonable adjustment, albeit through a complaint, NewDay offered him two alternative ways of contacting them to resolve the matter – one was the secure written method of communication Mr H had requested, the other was to have someone contact them on his behalf. While I've seen that Mr H has explained to us why he didn't think that contact through a third-party app was suitable, especially as it was primarily designed for people with a different disability to him, I haven't seen that Mr H explained this to NewDay. Nor have I seen anything from Mr H to say why authorising a third-party wasn't a suitable option for him.

As such, and while I appreciate this will come as a disappointment to Mr H, I'm satisfied that NewDay responded quickly to Mr H's request for a reasonable adjustment, offering two different solutions that may be suitable for him. And, as Mr H didn't tell them these options were unsuitable, I don't think NewDay did anything wrong by not further communicating with Mr H in an attempt to find a reasonable adjustment that was suitable. So, I don't think that NewDay have acted unfairly or unreasonably when considering all the circumstances.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 February 2026.

Andrew Burford
Ombudsman