

The complaint

Mrs O is unhappy that NewDay Ltd trading as Aqua allowed her to make transactions on a gambling website on a credit card they'd supplied to her.

Mrs O has been represented during the claim and complaint process by Miss G. For ease of reference, I will refer to any comments made, or any action taken, by either Mrs O or Miss G as "Mrs O" throughout the decision.

What happened

The complaint circumstances are well known to both parties, so I don't intend to list this chronologically and in detail. Mrs O had a credit card account with Aqua. Between 2 March and 14 March 2025, Mrs O made 17 transactions through a merchant I'll refer to as 'T', totalling £4,000. The merchant code for T identified these transactions as being for Digital Goods and Media Games. However, Mrs O has said these were actually transactions made to an offshore gambling website owned by a company that was unregulated in the UK.

Mrs O complained to Aqua, saying that they'd failed to stop these transactions from going through, despite there being a ban in place to stop gambling transactions on credit cards. Aqua responded to say that the transactions weren't flagged for gambling, so there was no reason why they should've been declined. Unhappy with this response, Mrs O brought her complaint to the Financial Ombudsman Service for investigation.

Our investigator said Mrs O was using a website operated by an unregulated gambling operator who wasn't licenced in the UK. And they were likely using merchant codes that allowed them to bypass the checks Aqua had in place to stop these types of transactions from going through. However, the investigator thought it was Mrs O's choice to use this operator, and it wasn't reasonable to expect Aqua to check every individual transaction every customer made, to ensure the merchant wasn't using an incorrect transaction code so as to avoid regulations that had been put in place.

What's more, the investigator said that an internet search on the merchant's name didn't bring back any results linked in any way to a gambling website, so, had Aqua carried out a check, it's unlikely they would've linked the transactions to gambling. So, the investigator didn't think Aqua had failed in their obligations to block gambling transactions, and they didn't think Aqua needed to take any further action.

Mrs O didn't agree with the investigator's opinion. She said that the volume of near identical transactions in such a short period is not normal consumer behaviour and should've triggered further checks – *"a basic search would have shown [these] to be gambling-related."* She said that the loss of £4,000 in 12-days had left her in significant debt, and had seriously impacted her mental health, especially as this took place at a time when she was already vulnerable due to the anniversary of the death of a family member.

Finally, Mrs O said the investigator's opinion was based on a *"narrow, technical interpretation"* that ignores Aqua's wider regulatory obligations to protect vulnerable customers from foreseeable harm.

Because Mrs O 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.

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. Mrs O had a credit card account with Aqua. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

Having reviewed all the evidence, it's clear that Mrs O made a string of relatively high value transactions, all with T, in a short period of time. I'm also satisfied that T was using a code that didn't indicate they were gambling transactions – the code indicated the transactions were for digital goods and media games. This code is used by merchants who provide digital video games, in-game items, virtual tokens, points, or subscriptions for play on various devices.

Based on the merchant code being used, I'm satisfied that these transactions wouldn't have been automatically flagged as gambling transactions and therefore wouldn't have been automatically stopped.

I also don't think it's reasonable to expect Aqua, or any other credit card provider, to manually check every single transaction made by every customer, in real-time, to see if it's potentially gambling related – to do so would be impractical and would delay the processing of transactions. As such, I don't think Aqua acted unreasonably by relying on merchant codes to identify potential gambling transactions.

Mrs O has said that, despite this, Aqua have a duty to protect customers from financial harm, so they should've recognised a pattern of spending and taken appropriate action. In this instance, Aqua didn't take this action, but I've considered what they would likely have discovered had they done so.

Mrs O has said that T is a “*merchant **known** for disguising gambling payments*” and a quick search would've identified “*ample evidence*” of this. And she has specifically referred to a company as evidence of this. However, the company she's referred to were, according to Companies House, a supplier of wholesale and telecommunications equipment who dissolved in August 2022 – more than two years before the transactions in question took place.

I've extensively searched T's name, and, with the exception of a similarly named commercial law firm, all results are for online games and gaming companies, not gambling sites. This is also what the merchant code shows. While these games may include in-game purchases, this would link to the type and volume of transactions made by Mrs O, and they don't necessarily flag or indicate gambling transactions. Mrs O has also provided a list of gambling

sites she says are linked to T. I've also checked this and an internet search doesn't bring up any such link.

Given this, I'm satisfied that, if Aqua had identified a pattern of spending that required manual intervention, and if they had carried out additional manual checks before approving some of these transactions, then they would not have linked T or the transactions to gambling. The likely outcome of such a check would be that these were in-game purchases, and there was therefore no reason to decline them.

As such, and while I appreciate that Mrs O was in a vulnerable position when she made these transactions, I'm satisfied that Aqua acted reasonably and the outcome of any checks would not have identified these transactions as ones that needed to be declined. So, I won't be asking them to do anything more.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 9 March 2026.

Andrew Burford
Ombudsman