

complaint

Mr G complains that a representative of NewDay Ltd was rude to him at the end of a telephone call he made about his Aqua credit card account. He believes the inappropriate language was motivated because of his race and/or religion. Mr G wants substantial compensation for the upset caused.

background

Mr G contacted NewDay about his Aqua credit card account. At the end of the call, NewDay's representative used an inappropriate term to describe Mr G. But the call had not been discontinued – so Mr G heard what the representative said. He was very upset and complained to NewDay.

NewDay agreed the representative was wrong to say what she did. It apologised to Mr G and offered to pay him £100 compensation. Mr G was not happy with this, so he referred the matter to us – seeking £5,000 in compensation.

Our adjudicator agreed NewDay's representative had acted inappropriately so recommended Mr G's complaint be upheld. And he thought the compensation offered by NewDay was a little low – he recommended it be increased to £150, which NewDay agreed to do. But the adjudicator did not believe the level of compensation Mr G was seeking was justified and he had seen no evidence to support his view the comment was motivated by Mr G's race or religion.

Mr G did not agree with the adjudicator's view so the matter has been referred to an ombudsman to make a final decision. In doing so, Mr G felt the adjudicator had not appreciated fully the impact the comment had had on him – or the wider discrimination people like Mr G suffered.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I am in no doubt how strongly Mr G feels about this matter. That is evident from his dealings with NewDay and his calls with this service. Mr G says he made the call to NewDay from his car phone and the inappropriate comment was overheard by his young children and a business associate. So his concerns are understandable.

There is no dispute the comment made by NewDay's representative was inappropriate. So the key issue I have to consider what level of compensation should be paid to Mr G.

I am afraid I have to tell Mr G that I think the adjudicator has reached the right outcome here. Mr G's expectations in terms of compensation are unrealistic.

Having listened to a recording of the call in question, NewDay's representative appears to act professionally and politely right up to the point at which (she clearly thinks) the call ends. I heard nothing that suggests the comment made was motivated by Mr G's race or religion.

But earlier in the call, Mr G is somewhat argumentative about the amount of the various security questions the representative asks him – although she does explain the reasons for asking these. That is not to suggest NewDay's representative was right to say what she did – far from it. But I consider it an important part of the wider context of this complaint.

I know Mr G will be disappointed with this, but I do not believe I can fairly direct NewDay to pay him compensation above the £150 it has now agreed. I have not seen – or heard – anything that suggests Mr G has been discriminated against because of his race or religion.

Mr G has referred to taking the matter to court. He is, of course, free to reject my decision and pursue the matter elsewhere. But my decision brings to an end what we, as an informal dispute resolution service, can do for him.

my final decision

For the reasons I have given I order NewDay Ltd to pay Mr G £150 compensation for the upset he has suffered. This amount is to include any payments already made by NewDay Ltd.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr G to accept or reject my decision before 4 March 2015.

Andrew Davies
ombudsman