

complaint

Mr A complains about NewDay Ltd, trading as Aquacard ("Aqua") and its actions in blocking his credit card and delaying in returning his credit balance to him. He wants compensation for his distress and inconvenience and an apology from Aqua.

background

Mr A had a cashback credit card with Aqua with a limit of £900. He wanted to buy a car and wanted to get cashback on the purchase, and also to have added consumer protection rights from using a credit card.

Mr A therefore paid more than £11,000 onto his card, using two other accounts. This resulted in a credit balance showing to him of more than £10,000.

Mr A attempted to make the payment to the car dealer using his card, in person on 21 February 2018.

The card transaction was declined. Mr A telephoned Aqua immediately to ask what the issue was.

He spoke to an agent and cleared security. The agent advised him that because of the value of the transaction it needed additional security checks. He said that due to the time of day this would not be possible until the following day and Mr A would not be able to complete his transaction.

During that call the agent told Mr A that there was a credit balance showing and asked the source of the additional funds. Mr A explained that he had transferred some of the funds from his usual account which was linked to the credit card account for his direct debit, and also that he had used a savings account. He gave the details of this account.

The agent advised him that he would be contacted the following day and that his card would be blocked in the interim.

Mr A was not contacted until two days later when he was advised that the card was now unblocked. The agent advised Mr A that his credit balance would be refunded within 3-5 working days.

By this time the car was no longer available.

Mr L had not received his credit refund by the beginning of March 2018 so he contacted Aqua to chase the payment. He was told that it would be refunded within 3-5 working days.

Approximately a week later, Mr A contacted Aqua again saying that he had not received the refund despite more than 5 working days having passed. He was advised that the payment did not work because Mr A had given details of the wrong account for the payment to be returned to and it could only be returned to the account from which it came.

After further discussion, it became clear that Aqua had attempted to refund the whole amount to Mr A's usual account (which paid his direct debit) despite only £3500 of the funds having come from there. Mr A gave a breakdown of the payments and the account details for a refund.

During this call he submitted a complaint and the call handler offered him £20 compensation for the delay.

Approximately a week later Mr A had still not received the refunds. He called Aqua again and was told that the refunds were in progress and would arrive with him soon. The call handler acknowledged that Aqua had received Mr A's complaint.

Soon afterwards Mr A received his refunded credit. This was just over 3 weeks since his attempt to purchase the car was rejected.

Around the same time, Aqua sent Mr A its final response to his complaint. This letter did not uphold Mr A's complaint and explained that the security checks which were undertaken were essential. The letter also said that by putting his card into credit Mr A had breached the terms of the card. He therefore would not have been eligible for cashback or consumer credit protection on the transaction.

Mr A was not happy with that response and approached us.

One of our adjudicators has looked at the complaint and made additional enquiries with Aqua. He set out his view to the parties that he did not find that Aqua had done anything wrong in declining the transaction or by blocking the card while carrying out security checks, but he felt that Aqua had unreasonably delayed in returning Mr A's overpayment to him. The adjudicator felt that Aqua should pay £200 compensation to Mr A.

Aqua did not accept this view and asked for an ombudsman decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have, in particular, had regard to the available telephone call recordings, and the terms and conditions provided by the business.

The terms of the account do set out that customers must not make payments into the account which would leave a credit balance on the account. They set out that the business may return any funds that exceed the balance owing to the account from which the money has been sent.

From this, I think it is clear that Aqua does not permit customers to use their cards in the way that Mr A attempted to do, i.e. by building up a credit balance in order to make a purchase which is larger than the credit limit.

I appreciate that Mr A wanted to make use of benefits of the card, and additional protections, but this was not an option open to him with that card.

Given the sums of money paid into the card were large I think it reasonable that this triggered additional checks within the business.

I therefore do not criticise Aqua for rejecting the transaction at the time, as this was consistent with the limits of using the card.

I do, however, think that the information given to Mr A was confusing and inaccurate, and that the business unduly delayed in returning his money to him.

Initially, I think it was confusing that Aqua accepted the payments to the account and did not return them immediately to the sending accounts, as the terms and conditions indicated.

Secondly, when Mr A called to find out why his transaction had been declined he was not told that the way he had used the card was the problem, but was told that it was for additional security. Mr A supplied all security information requested at the time and reasonably expected that this was sufficient to address the concerns.

I note that the call handler advised Mr A that he would be contacted the following morning, given that by that time it was late in the day. The call handler then told Mr A that he should tell the dealer to hold the transaction until the following day.

As Mr A was not called the following day, this was poor advice and would have mismanaged Mr A's expectations further about whether he would be able to continue with the transaction.

When Mr A was subsequently called back, it became clear that the credit balance was the issue and so he requested the credit balance be refunded.

He had by his point already given Aqua two sets of bank account details for the payments to be returned during his initial call.

Despite this, Aqua attempted to return all the funds to one account and this was rejected.

Aqua did not alert Mr A to this or contact him to request clarification. He therefore had to chase up the refund when the time scale had elapsed.

During his chaser call the call handler gave confusing information suggesting that she had details of where the payments had come from, but then that she was unable to initiate the return of the funds. Mr A then confirmed the details and the breakdown of the payments again.

The refund was not then completed within the timescale given to Mr A so he had to chase again.

I agree with the adjudicator's view that Aqua did not properly advise Mr A during his initial call, that Aqua delayed in contacting Mr A, either as promised or to update him of the failure of the refund, and that it delayed in returning his money even though it had the correct information to make the refund payments.

For these reasons I uphold Mr A's complaint.

I think the poor service from Aqua caused Mr A to be without a significant amount of his money for nearly three weeks longer than was necessary, and caused him to have to chase the refund more than once.

I think that the sum of £200 recommended by the adjudicator is reasonable. I note that £20 has already been credited to Mr A, which can be deducted from the total of £200

For the avoidance of doubt, this level of compensation does not include any compensation for the transaction being declined or the loss of cashback or consumer protections, since Mr A was not entitled to these, having breached the account terms.

my final decision

For the reasons set out above, I uphold Mr A's complaint and direct NewDay Ltd to pay to him £200 compensation in total, including any compensation already paid in respect of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 17 January 2019.

Laura Garvin-Smith
ombudsman