

complaint

Mr O's complaint relates to a default registered by his credit card company NewDay Ltd (trading as Aqua) which he was not informed about. Mr O felt Aqua should have informed him of their intention and given him the opportunity to resolve the situation.

background

Mr O held an Aqua credit card. He was in a payment plan and had missed one payment. Aqua recorded a default against Mr O which he was unaware of because the required notification was not sent. When Mr O discovered the default he contacted the company to complain. They acknowledged they had failed to comply with their obligation to send the Notice of Intention to file a default and apologised but said they were correct in registering the default as Mr O had missed a payment. Mr O requested they remove the default but Aqua refused.

Our adjudicator thought Aqua had acted unfairly as when Mr O was aware of the default he made an immediate payment and then a further payment to clear the debt in full. The adjudicator felt that had Mr O had prior notice of the Aqua's intentions he would have taken action to avoid the default. Our adjudicator upheld Mr O's complaint and proposed Aqua remove the default and pay Mr O £150 for trouble and upset. Aqua did not accept the decision and requested an Ombudsman review.

my findings

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 think our adjudicator's decision was fair. I'll explain why. Aqua did not give Mr O the appropriate notice of their intentions to record a default on his credit file. On discovering the default Mr O made immediate contact and took steps to make one payment and the following month cleared the debt in full. I'm satisfied had Aqua given the required notice, Mr O would have taken action to prevent the default. It should have given Mr O the opportunity to take action before it recorded a default.

my final decision

My final decision is that I uphold Mr O's complaint. I direct New Day Ltd (trading as Aqua) to remove the default from his credit file and pay Mr O £150 for the trouble and upset he has suffered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 10 April 2017.

Wendy Steele
ombudsman