

complaint

Mr H has complained that NewDay Ltd ("Aqua") has told him his account is in arrears, even though the interest has been frozen. He would like the debt to be written off. He feels Aqua has discriminated against him, provided him with poor service and mismanaged his payment plan.

background

facts

Mr H has a credit card account with Aqua. This fell into arrears and a payment plan was agreed. This included a payment holiday, following an accident Mr H suffered. During this period, Aqua agreed not to contact Mr H, but it seems some letters were sent. Aqua apologised for this and offered Mr H £50 compensation. It subsequently agreed to stop pursuing Mr H for the debt, and to review the situation in May 2019.

Mr H was unhappy with this and referred his complaint to our service. One of our investigators looked at what had happened. She didn't feel Mr H had been discriminated against. She felt that Aqua had behaved fairly and handled the repayment plan reasonably. She agreed that Aqua had contacted Mr H when it shouldn't, but thought the £50 it had offered was fair to address this aspect of his complaint. She also thought the further £50 it credited to him by calling him, not writing, was fair.

Mr H disagreed and asked that his complaint be reviewed by an ombudsman. Since his complaint has been passed to me, Mr H has explained to us that he has been badly affected by the coronavirus pandemic, as he has serious underlying health conditions, so his ability to work has been restricted.

my provisional decision

I issued a provisional decision, to set out my thinking and give Mr H and Aqua the opportunity to respond with anything further.

My provisional decision said as follows:

First, I am very sorry to hear about the stress Mr H has been under due to his health conditions. I know things must be very difficult, especially given the situation with coronavirus. I appreciate it must be a very worrying time. I'd like to assure Mr H that I've taken into account all of his submissions. Although I will not refer to every piece of correspondence, I have carefully considered everything he has provided.

I have focussed on the two issues that I consider go to the heart of this complaint. These are: (i) discrimination; and (ii) poor customer service, including mismanagement of the repayment plan.

Turning first to the issue of discrimination. It's not for me to decide whether or not Mr H has been discriminated against. That's the role of the courts. However, I am required to take into account the law, which includes the Equality Act 2010. I then need to decide if I think Aqua has behaved fairly.

I'm satisfied, for the purposes of this complaint, that Mr H has a disability. This means that

any action Aqua takes must be a proportionate way of achieving a legitimate aim. Here, it has contacted Mr H to explain what monies were due. This was done periodically and I don't think was a course of conduct that was unreasonable. The money was owing and I think it was fair that Mr H was kept informed about how much this was. That said, I do think contact was made in two instances, when it wasn't appropriate. I will address this below, when I look at customer service, because I consider it to relate to that, rather than to Mr H being discriminated against.

Mr H feels his health hasn't been taken into account. I disagree. Aqua has consistently looked at repayment plans and a repayment holiday. It also suspended collection activity and agreed to review this. Accordingly, I think it has taken into account his ability to repay the debt. I don't think this means it needs to go as far as writing off the debt. I would expect it to take into account his ability to repay and act accordingly – which it has done.

I'm aware that coronavirus may likely also be affecting Mr H's ability to repay on an ongoing basis. So, I would expect Aqua to keep matters under review.

I turn now to customer service and the management of the repayment plan. Mr H had concerns that at one point he was paying back £15 a month. But I think Aqua was entitled to consider this is what Mr H had offered, as he said:

*OFFER FOR 6 to 12 months + £15.00 per month
Or if Reul (?) pro rata with other creditors it will only be £7.00 per month.*

So, I don't think Aqua did anything wrong here.

Aqua also reduced Mr H's credit limit. But I think this was reasonable. He was in a repayment plan and the reduction helped to avoid further debt accruing.

I've reviewed the correspondence between Aqua and Mr H, including by telephone. I haven't found any instances of Aqua being rude or unprofessional.

However, Mr H was contacted during his repayment holiday in 2017. Later he was contacted by phone not letter, contrary to his wishes. Further, there were occasions where Aqua did not respond to each piece of Mr H's correspondence, and on one occasion sent him a default letter. It has apologised for these errors and credited his account with £100 in total. I think this fair to take into account these errors.

For these reasons, I don't think Aqua has behaved unfairly. Although there were some errors, I consider the compensation paid to be appropriate to address these.

responses to my provisional decision

Aqua didn't add anything further.

Mr H disagreed with my provisional findings. In summary, he doesn't think I've taken his health conditions seriously, and that he has to give up work because of the severe risk coronavirus poses to his health.

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'm not departing from my provisional decision. I know this will be very disappointing for Mr H. But I explained in my provisional decision why I don't think Aqua has behaved unreasonably regarding Mr H's health conditions, and that I'd expect it to keep matters under review as regards his ability to repay and coronavirus. I have looked very carefully at Mr H's submissions, and have taken everything he's said seriously. I'm very sorry to hear about his health and I'm also sorry to disappoint him further. That is not my intention. But I've explained why I think what Aqua has done is fair, and nothing further has persuaded me to depart from this.

my final decision

My final decision is that the £100 total compensation NewDay Ltd has paid to Mr H is fair. I am not requiring it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 December 2020.

Elspeth Wood
ombudsman