

The complaint

Mr H complains about the treatment he has received from Lowell Financial Limited (“Lowell”) in respect of three credit card debts purchased by it, two in respect of two credit cards issued by a business that I will call C and one in respect of one credit card issued by a business that I will call V.

Mr H says he would like all three debts written off, for the three associated default notices in respect of the same (registered with credit reference agencies) removed and compensation for the “*non-financial loss*” he has been caused.

What happened

After Mr H complained to Lowell it agreed, amongst other things, to:

- not to pursue Mr H for any of the three debts
- record all three debts in its books as having a nil balance
- return the debt purchased from V back to V
- remove the one default registered in its name (in respect of the debt purchased from V) from Mr H’s credit file
- not remove the two defaults registered in its name (in respect of the two debts purchased from C) from Mr H’s credit file

This offer was considered by one of our investigators who came to the view that, in all the circumstances, Lowell didn’t need to do anything further.

Mr H didn’t agree with the investigator’s view reiterating, amongst other things, that in his view all three defaults should be removed. And in not removing all three defaults, Lowell was in breach of its regulatory obligations to him – in particular its regulatory obligations under the Consumer Credit Sourcebook (“CONC”).

The investigator considered Mr H’s response to her view but wasn’t persuaded to change her mind. Therefore, Mr H’s complaint has been passed to me for review and decision.

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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators’ rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

Having considered all the available evidence and arguments I can confirm that I’ve come to the same conclusion as the investigator and for the same reasons. There is also very little I can usefully add to what has already been said.

It's clear Mr H has very strong feelings about this complaint. He has provided detailed submissions in support of his view which I can confirm I've read and considered in their entirety. However, I trust that Mr H will not take the fact that my findings focus on what I consider to be the central issues, and that they are expressed in considerably less detail, as a discourtesy. The purpose of my decision isn't to address every point raised. The purpose of my decision is to set out my conclusions and reasons for reaching them.

First, and for the avoidance of any doubt, I'm satisfied that Lowell was entitled to purchase the three debts that it did, in the manner that it did and when it did. I'm also satisfied that Lowell was, on purchasing the three debts, entitled to amend the three defaults registered by C and V to defaults registered by it.

I will now turn to what is the crux of Mr H's complaint, that is given his current personal and financial position, his view of his future prospects and given what Lowell has agreed to do, it's simply unreasonable and unfair not to remove all three defaults from his credit file.

In support of his view Mr H makes reference to CONC – in particular CONC 7.3.2, 7.3.4 and 7.3.5. These say:

CONC 7.3.2 - When dealing with customers in default or in arrears difficulties a firm should pay due regard to its obligations under Principle 6 (Customers' interests) to treat its customers fairly.

CONC 7.3.4 - A firm must treat customers in default or in arrears difficulties with forbearance and due consideration.

CONC 7.3.5 - Examples of treating a customer with forbearance would include the firm doing one or more of the following, as may be relevant in the circumstances:

(1) considering suspending, reducing, waiving or cancelling any further interest or charges (for example, when a customer provides evidence of financial difficulties and is unable to meet repayments as they fall due or is only able to make token repayments, where in either case the level of debt would continue to rise if interest and charges continue to be applied);

(2) allowing deferment of payment of arrears:

(a) where immediate payment of arrears may increase the customer's repayments to an unsustainable level; or

(b) provided that doing so does not make the term for the repayments unreasonably excessive;

(3) accepting token payments for a reasonable period of time in order to allow a customer to recover from an unexpected income shock, from a customer who demonstrates that meeting the customer's existing debts would mean not being able to meet the customer's priority debts or other essential living expenses (such as in relation to a mortgage, rent, council tax, food bills and utility bills).

Now I appreciate Mr H doesn't agree, but I'm satisfied in that offering to do what it has Lowell has met its obligations under the various regulations it's bound by. Indeed, like the investigator, I'm of the view that in taking the decision to not pursue Mr H for any of the three debts, Lowell has offered to do more than I might have expected it to do, or I might have been inclined to direct it to do.

I understand Mr H holds the view that he will never be in the personal or financial position to clear the debts in question. And if Lowell has agreed not to pursue him for the debts in question it makes no sense to keep these debts recorded with credit reference agencies as being in default. However, in my view, Lowell has acted entirely reasonably in keeping the defaults registered that it has given these registrations reflect accurately the history and conduct of the accounts.

My final decision

My final decision is that having agreed:

- not to pursue Mr H for any of the three debts
- to record all three debts in its books as having a nil balance
- to return the debt purchased from V back to V
- to remove the one default registered in its name (in respect of the debt purchased from V) from Mr H's credit file

Lowell Financial Limited need do nothing further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 February 2021.

Peter Cook
Ombudsman