

The complaint

Miss H complains that Advanced Payment Solutions Limited trading as Cashplus (Cashplus) defaulted her account and sold it to a debt collection agency.

What happened

Miss H had a credit card from Cashplus since 2014. She was made bankrupt in October 2016. In 2019, Cashplus defaulted her account and passed it to a debt collection agency.

Miss H complained to this service in March 2020. She said she'd been made bankrupt in October 2016. She was being supported by Citizens Advice Bureau and she said they put the Cashplus debt on her statement of affairs that went to her creditors. So, the Cashplus debt should've been dealt with in her bankruptcy. She said the default registered by Cashplus was wrong and the debt shouldn't have been passed to a debt collection agency.

We asked Cashplus to look into it and issue its response. In April 2020, they said they hadn't received any information about Miss H's bankruptcy. They had been contacted by Citizens Advice – but only asking for her balance. A default notice was sent to Miss H on 30 July 2019. On 31 January 2020, her account was sold to a debt collection agency. They said they'd consider backdating any actions if they saw evidence of Miss H's bankruptcy.

Miss H bought her complaint to this service. Our investigator looked into what had happened. In September 2020 he said the credit card hadn't been used since February 2016 and Miss H had stopped making repayments to the account. So, it appeared that the debt should've been written off in the bankruptcy. He said the account should be written off and the default date set back to the date of the bankruptcy – October 2016. This was in line with ICO guidance.

Cashplus initially accepted this, and then asked that Miss H's complaint be reviewed by an ombudsman.

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.

Miss H has shown us the bankruptcy order dated 13 October 2016. We would normally expect all debts to be included in the bankruptcy – so that everything can be dealt with. Miss H told us that she's certain the Cashplus debt was listed when Citizen's Advice put her statement of affairs together. She doesn't have the Citizen's Advice papers. If this was the case, Cashplus would've been advised of the bankruptcy and the debt would then have been dealt with within it. Cashplus say they weren't aware of Miss H's bankruptcy, so they couldn't have done this. So, they went ahead and defaulted her account and sold it to a debt collection agency.

I can see that the card wasn't used for purchases after February 2016. There were no repayments made after then either. So, the debt was dormant. The balance in June 2016

was £1088.77 debit. I can see that there were several calls made to Miss H in March 2016 and April 2016. There were also letters and texts sent to her between March 2016 and June 2016. On 16 May 2016, Cashplus' records show there was a call from Miss H and a credit freeze was agreed. But nothing after that. We have asked Cashplus for a copy of the default notice that they sent to Miss H. We also asked them for the letters they received from Citizen's Advice – which asked for the balance of the account. Unfortunately, they've not sent these to us.

Where bankruptcy is concerned, the Information commissioner (ICO)'s guidance is that any default should be registered alongside the bankruptcy order.

We know that Miss H is struggling with her health. We cannot be absolutely certain what happened here. But on balance I'm persuaded that it's likely that Cashplus were aware of Miss H's bankruptcy and should have dealt with her debt at that time.

So, I ask Cashplus to take the debt back from the debt collection agency and write it off. They should remove the default registered in 2019 and enter it at the new date - October 2016. I hope that Cashplus can see that this is the most pragmatic way forward here.

Putting things right

Advanced Payment Solutions Limited trading as Cashplus should take the debt back from the debt collection agency and write it off. And amend Miss H's credit file to remove the default in 2019 – and show it as October 2016.

We will send a copy of Miss H's bankruptcy order to Advanced Payment Solutions Limited trading as Cashplus.

My final decision

I uphold this complaint.

Advanced Payment Solutions Limited should take the debt back from the debt collection agency and write it off. And amend Miss H's credit file to remove the default in 2019 – and show it as October 2016.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 19 March 2021.

Martin Lord
Ombudsman