

## The complaint

Mr W has complained that Gain Credit LLC trading as Drafty hasn't carried out the settlement in full that was agreed, on 7 October 2020, in order to resolve Mr W's complaint.

Mr W has also said that he doesn't think it is fair that if he sets up a repayment plan, for his outstanding balance, Drafty will report this on his credit file. Mr W states that he has only ended up having to set up a repayment plan due to Drafty's failure to help him properly in the first place.

## What happened

Our adjudicator did partially uphold Mr W's complaint. Mr W did not agree with the adjudicator's opinion. The complaint was then passed to me.

I issued my provisional decision explaining the reasons why I was intending to uphold Mr W's complaint in part. A copy of the background to the complaint and my provisional findings follow this and form part of this final decision.

## What I said in my provisional decision:

*Mr W originally complained that Drafty had failed to provide him with information and help on how to change his card payment details. Mr W explained this was required as he had changed his name, and there didn't appear to be an option on Drafty's app to allow him to make these changes. Mr W stated this information and support wasn't provided and as a result he was unable to maintain his monthly payments on the credit facility. This resulted in the facility defaulting and the outstanding balance being transferred to a third-party debt collection agency.*

*When Mr W referred his complaint to our Service, Drafty hadn't provided a final response letter to his complaint. A final response letter regarding irresponsible lending was issued by Drafty but this didn't address Mr W's complaint about the support he asked for in order to change his card details. Additionally, Drafty's complaint submissions to our Service also addressed irresponsible lending. So, one of our adjudicators asked Mr W if he would like us to also consider irresponsible lending as part of his complaint. Mr W confirmed he did.*

*The same adjudicator looked at Mr W's complaint about irresponsible lending and the lack of help in changing his card payment details. He thought that it was reasonable for Drafty to have given Mr W the initial credit facility of £500 in July 2018, and the first two credit limit increases. The adjudicator went on to explain that he thought by August 2019, Drafty should've withdrawn the credit facility. The adjudicator explained this was because Mr W hadn't reasonably demonstrated an ability to significantly reduce his outstanding balance in the first 12 months, he'd held the credit facility. And he thought Mr W's overall pattern of borrowing, by 23 August 2019, showed signs of Mr W experiencing financial difficulties as well as an over reliance on this type of lending.*

*For the part of the complaint about changing Mr W's card payment details, the adjudicator thought there was a failure in communication from Drafty regarding firstly Mr W's requests for help and then when he raised the same issue as a complaint. The adjudicator went on to explain that he thought Mr W had been caused unnecessary distress and inconvenience due to the lack of support provided by Drafty, which had resulted in Mr W missing scheduled payments.*

*Taking everything into consideration, the adjudicator thought Drafty should do the following:*

- "A) Remove all interest, fees and charges from the account relating to any drawdowns taken after the credit limit increase of £1,080 in August 2019.*
  - B) Treat all payments Mr W has made towards his account after the credit limit increase of £1,080 as though they had been repayments of outstanding principal.*
  - C) If at any point Mr W would have been in credit on their account after considering the above, you will need to refund any overpayments with 8% simple interest\* calculated on these payments, from the date they would have arisen, to the date the refund is made.*
  - D) If there is an outstanding principal balance, then you can use any refunds calculated as part of "C" to repay this. If a balance remains after this then you should try to agree an affordable repayment plan with Mr W. If you have previously written off any principal, then you shouldn't pursue outstanding balances made up only of principal you have already written-off.*
  - E) You should remove any adverse payment information recorded on Mr W's credit file after the credit limit increase of £1,080.*
- You should pay Mr £200 in recognition of the distress and inconvenience caused by failing to address his request for assistance about changing his card payment details. Please note this must be paid directly to Mr W and cannot be used to reduce any indebtedness he has with Drafty."*

*Drafty responded and made an offer that was in-line with the adjudicator's recommendations. This offer was put to Mr W and he confirmed his acceptance of it in October 2020. The adjudicator informed Drafty of Mr W's acceptance and the adjudicator reasonably believed Mr W's complaint to have been resolved. The complaint was then closed.*

*On 9 November 2020, Mr W contacted us to say that he'd received the £200 distress and inconvenience payment but that Drafty was asking him to pay an incorrect amount for his outstanding balance. The adjudicator contacted Drafty about this and was informed the issue had been resolved from Drafty's end.*

*Mr W then explained that Drafty was asking him to make payment of the full outstanding balance rather than offering a suitable repayment plan. The adjudicator queried this with Drafty as this had been included in the agreed settlement. I can see from Drafty's email, dated 29 December 2019, that it provided Mr W with the option of making a one-off payment for the full amount or Mr W could set up a payment plan.*

*As part of the same email, Drafty explained that if Mr W was to set up a payment plan then Drafty would be required to report the payment arrangement to the Credit Reference Agencies. Mr W wasn't happy with a payment arrangement being reported on his credit file, so he referred the matter back to us. Mr W also informed us that, as of 4 January 2021, his credit file was still showing adverse information about his Drafty credit facility. Mr W explained that at this point it had now been more than 60 days since he'd accepted Drafty's offer so the adverse information should've been removed, in-line with the accepted settlement.*

*Mr W asked us to look into the matter further as he didn't feel the agreed settlement had been carried out in relation to the amendments Drafty agreed to make to his credit file or that reporting a payment plan was fair. Mr W has said that due to no fault of his own he'd fallen into arrears with his outstanding balance on the credit facility and now a repayment plan would be further adverse information.*

*The adjudicator raised Mr W's concerns with Drafty, on 5 January 2021, and asked Drafty to consider whether it would be willing to set up a repayment plan without this being reflected on Mr W's credit file. The adjudicator also asked Drafty to remove any current adverse information still reported on Mr W's credit file, as per the settlement that had already been agreed in October 2020.*

*Drafty responded stating that any repayment plan would be reported on Mr W's credit file but that this would be removed once he'd repaid the outstanding balance. Drafty also told us that it had already raised a request for any adverse information to be removed from Mr W's credit file and that this would take 30 to 45 days to be reflected on Mr W's credit file. Mr W wasn't happy with what Drafty had said about the removal of the current adverse information from his credit file or the adding of new adverse information.*

*As no agreement has been reached the complaint has been passed to me for a final decision.*

*As Mr W's complaint about irresponsible lending and the changing of card payment details appears to have been settled, I won't be considering these parts of Mr W's complaint any further. I say this because Drafty made an in-line offer based on the adjudicator's recommendations for both these aspects of Mr W's complaint. Mr W also accepted this offer and the £200 distress and inconvenience payment has been completed.*

*Drafty has also said that it has reduced Mr W's outstanding balance to £1,030.35, using the redress calculated and has provided information showing that the redress calculations included the extra payments Mr W had highlighted to us as having been made between January and March 2020. So there doesn't appear to be an ongoing dispute about these aspects of the complaint.*

*I will now consider Mr W's complaint about Drafty not having carried out the accepted settlement as agreed in October 2020 and whether it would be fair for Drafty to report a repayment plan on Mr W's credit file*

### ***What I've provisionally 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.*

*I've also taken into account the law, any relevant regulatory rules and good industry practice that are applicable in this instance.*

*I'm partially upholding Mr W's complaint and I've explained why below.*

### ***Agreed settlement from October 2020***

*I can see Mr W has said Drafty had added two missed payment markers to his credit file, when he contacted us by email on 11 December 2020 and that his credit file hadn't been updated by January 2021. Mr W also explained that he was still being chased by the third party debt collectors, for an incorrect outstanding balance amount in January 2021.*

*While Drafty may have added missed payment markers to Mr W's credit file, there isn't anything from what I've seen to suggest when these may have been added. Additionally, as Mr W hasn't provided us with a copy of his full credit file, when he raised this issue with us in January 2021, there isn't enough information from what I've seen to reasonably indicate these markers, by themselves, have caused Mr W financial loss since the settlement was accepted in October 2020.*

*Mr W has provided us with a screenshot of his Drafty credit file entry from June 2021. Having reviewed this, I can't see that there isn't any adverse information, in terms of any missed payment or default markers on the Drafty entry. So, this would indicate that any adverse information that was on the entry has since been removed. This reasonably suggests Drafty has completed the removal of adverse information from Mr W's credit file in line with the October 2020 settlement.*

*Having said that, in an email dated 16 June 2021, Drafty stated that it raised the request for the removal of adverse information from Mr W's credit file with the credit reference agencies on 20 January 2021. This was more than three months after Drafty had been informed of Mr W's offer acceptance and can take up to a further 30 to 45 days for the update to appear on Mr W's credit file.*

*As a result, it would be closer to four and half months after Drafty's offer was accepted for this part of the settlement to be completed. Yet Drafty was able to complete the payment for distress and inconvenience as well as reducing Mr W's outstanding balance within a reasonable amount of time following Mr W's offer acceptance.*

*I also note that as part of Drafty's offer, it has said that it would inform the credit reference agencies of any amendments within 28 days of receiving the offer acceptance. So, I don't think having to wait up to four and half months to have any adverse information removed from his credit file, which is almost double the amount of time Drafty had said it would take, was a reasonable amount of time for Mr W to have had to wait.*

*Additionally, Mr W has provided us with a copy of a letter he received from a Credit Reference Agency (CRA), also dated 20 January 2021. This was following Mr W raising the issue of having his credit file amended with the CRA. The CRA explained that Drafty had not agreed to amend his credit file without Mr W first contacting Drafty. This seems to contradict the request Drafty made to amend Mr W's credit file on the same day. I can appreciate Mr W's continued frustration and upset at trying get any adverse information removed from his credit file and the appropriate updates made.*

*Looking at the credit file screenshot Mr W had provided from June 2021, I can see that it was last updated on 4 February 2021. However, the outstanding balance is still reported incorrectly. I say this as the outstanding balance is showing as £1,415 but in numerous email communications from Drafty to both our Service and Mr W, Drafty has confirmed Mr W's outstanding balance is £1,030.35.*

*In accordance with the Information Commissioner's Office (ICO) 'Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies', businesses are required to report data that is accurate and up to date. Given it is now almost nine months since Mr W accepted Drafty's settlement offer and the information reported on his credit file entry is still incorrect, I think at the very least Drafty should update Mr W's outstanding balance to reflect the correct amount still owing.*

*However, Drafty has also told us that it stopped reporting on Mr W's credit facility from December 2020. So, if Drafty isn't willing or able to request the appropriate amendments to Mr W's outstanding balance, then I don't think it would be unreasonable for Drafty to*

*consider removing the entire credit file entry. This would effectively limit any further distress and inconvenience to Mr W but this doesn't mean Mr W isn't required to repay the outstanding balance he has, because he does.*

*I say this because nine months to get to this point is more than a fair and reasonable amount of time for Drafty to have implemented the agreed settlement and to have reported accurate and up to date information on Mr W's credit file. Additionally, based on what I've seen, Mr W has continued to be caused undue distress and inconvenience during this same period of time - due to the inaccurate information reported and being asked on a number of occasions to pay an incorrect outstanding amount. This is despite the October 2020 accepted settlement including an agreed reduction of the outstanding balance as well as Mr W having raised his concerns about the outstanding balance amount, he has been asked to pay after the acceptance of the settlement offer.*

*Bearing all of this in mind, I don't think it would be unreasonable for Drafty to pay Mr W an additional payment of £100 for any further trouble and upset that Drafty has unnecessarily caused him in the nine months since he accepted Drafty's offer to settle his complaint.*

#### *Reporting a repayment plan on the credit file*

*In accordance with the ICO principles for reporting arrangements and good industry practice, financial businesses are required to report accurate information about a consumer's borrowing to the credit reference agencies. And that reporting an agreed payment plan would generally fall within the type of information to be reported. However, under the first principle, the ICO also states that data that is reported on a consumer's credit file must be fair.*

*In this instance, Drafty has already agreed, by offering and paying Mr W £200 compensation for the distress and inconvenience caused to him, that there were failings in addressing Mr W's request for assistance in changing his card payment details. And that this likely caused Mr W problems in making his contractual payments on his credit facility. The adjudicator's view on this aspect of Mr W's complaint stated that when Mr W fell into arrears on his facility he had, up to that point, been making his minimum monthly repayments as scheduled. So, the adjudicator concluded that the lack of assistance by Drafty had caused Mr W undue distress and inconvenience and he should be compensated.*

*In light of the agreed settlement in October 2020 and everything else that has happened with Mr W's credit facility since then as detailed above, I think it would be reasonable for Drafty to agree a suitable repayment plan with Mr W and then not report this arrangement on his credit file, just the reducing balance on the facility. I say this because reporting a payment plan now would only be adding further adverse information to Mr W's credit file, when Mr W has already been caused a fairly prolonged amount undue distress and inconvenience as a result of Drafty's lack of support and communication.*

*I acknowledge that by reporting an agreed payment plan, Drafty would be accurately reflecting what is happening with the current outstanding balance on Mr W's credit facility, as well as following good industry practice. However, in the individual circumstances of this case, by doing so it wouldn't seem to fairly reflect what has happened and why, since Mr W initially raised his irresponsible lending and change of card payment details complaint with Drafty.*

#### **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.

Mr W responded to tell us that he was happy with the outcome reached in the provisional decision. He also told us that he has new bank details, so Drafty will need to contact him before making the compensation payment.

Drafty initially responded to say that it broadly agreed with the findings in the provisional decision. It said that it would agree to pay the additional compensation payment of £100. It also confirmed it had reduced the outstanding balance to what was previously agreed.

Although, Drafty didn't confirm whether this balance reduction had been communicated to the credit reference agencies. If it hasn't done this, it will need to arrange for the correct balance to be updated with the credit reference agencies.

However, it said it couldn't prevent the further adverse credit file data from being reported to the credit reference agencies. It said the information would be removed once Mr W settles the account. It also said that it would have to report any payment plan with the credit reference agency and if Mr W doesn't stick to any plan then his account may be passed to a third-party collection agency.

However, before I finalised the final decision, this service contacted Drafty acknowledging the above and asking what else it could do, given what was explained in the provisional decision. In response, Drafty said it would do the following (in addition to paying the compensation);

- An affordable repayment plan can be set up without further adverse information being reported to the credit reference agencies – as long as the plan is stuck to.
- But, should Mr W not stick to the repayment plan or misses a payment, then this adverse information will be reported to the credit reference agencies.
- Once the facility is repaid, Drafty has offered to remove it from Mr W's credit file.

I've considered what Drafty has recently told us, and I do consider this to be a fair resolution to the complaint. In effect, should Mr W need a repayment plan, he agrees to one and then sticks to it, no further adverse information will be reported. And once the account has been repaid the record will be deleted. This seems fair and reasonable to me.

So, taking on board everything that has been given to this service, I'm still upholding Mr W's complaint and I've outlined below, what Drafty has agreed to do to put things right.

### **Putting things right**

In order to put things right Drafty take the following action;

- Drafty needs to ensure the outstanding account balance is correct with the credit reference agencies
- Drafty and Mr W should try and come to a mutually agreeable repayment plan (if one is needed) and in line with Drafty's recent email, no new adverse information should be added to Mr W's credit file as long as the plan is stuck to.
- Once the account balance has been repaid, in line with Drafty's recent email it should delete the record and
- Drafty should pay Mr W an additional £100 compensation.

Finally, I'd remind Drafty of its obligation to treat Mr W fairly.

Mr W has told us that he has a new bank account details so Drafty will need to liaise with him in order to make sure the compensation payment is paid into the correct account.

### **My final decision**

For the reasons I've explained above and in my provisional decision, I'm upholding Mr W's complaint in part.

Gain Credit LLC trading as Drafty should put things right for Mr W as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 11 October 2021.

Robert Walker  
**Ombudsman**