

The complaint

Miss T has complained about her car insurer EUI Limited because it marked her credit file with a default, even though it had agreed to put its request for her to pay outstanding payments on hold.

What happened

Miss T had a policy with EUI which she'd agreed to pay for by monthly direct debit. In July 2019 Miss T missed a payment, and when EUI called for the money again, it still wasn't able to collect it. EUI wrote to Miss T and said she was in default and her policy would be cancelled if she didn't pay the outstanding sums by 1 August 2019. Whilst Miss T called EUI on 1 August to make a payment, the policy was cancelled and although EUI viewed Miss T as being in default, her credit file wasn't updated at that time. Miss T made a complaint to this service about EUI's actions. My ombudsman colleague found that EUI had treated Miss T fairly in respect of cancelling the policy and that it had been entitled to view her as being in default of her credit agreement.

During the course of our processing that complaint, Miss T told us EUI had agreed to put matters on hold pending the complaint outcome. However, she said that the hold kept being removed so she was receiving debt collection letters, with a late payment charge being added. She said the default had also been updated in her credit file. EUI refunded the charge to Miss T and paid her £75 compensation because it accepted it hadn't responded to her complaint email. But EUI felt it had acted correctly to record the default which had occurred. EUI said that whilst its collection activity had been put on hold that hadn't affected its duty to update the credit file.

Miss T had an additional concern about a conversation she'd had with EUI in an online chat in November 2020. At that time Miss T contacted EUI to make a payment of the outstanding sum which had resulted from the missed payments and policy cancellation in August 2019. She asked to pay the outstanding balance in full – which would be cheaper, rather than make a payment plan, but EUI initially refused to take this payment. EUI felt that taking full payment would place Miss T in a worse financial position. But, during the same conversation, when EUI's representative explained this to Miss T, she was able to persuade the representative this was not the case. The representative took Miss T's payment for the lower amount in full settlement of the outstanding policy sum.

Miss T made a further complaint to us as she felt EUI should have advised her, when she asked to put its request for payment on hold, that it would still amend her credit file in the meantime. She said if it had she would have paid and, therefore, avoided the default marker being placed on her credit record. She also felt it was unfair that EUI had assumed what her financial position was, and whilst this had been resolved during the same call, she had been caused further distress.

Our investigator didn't uphold the complaint. She felt Miss T had been made aware via the credit agreement and the letter EUI sent in July 2019, that it might record her as being in default. She also felt EUI had acted in accordance with its responsibility to not put Miss T in

a worse financial position when it had initially refused to allow her to pay the lower sum to clear the debt. She didn't think EUI had done anything wrong.

The complaint came to me for consideration. I felt EUI had failed Miss T and that it should pay her £250 compensation. My provisional findings were:

“default

My colleague found that EUI was entitled to hold Miss T in default. I appreciate that Miss T believes she wasn't in default as she was intending to pay, but I can't go behind the findings of my colleague. I can only start from the premise that in July 2019 a default had occurred. So, in August 2019, when Miss T was asking EUI to put its debt collection activity on hold, the default had already occurred. EUI, at that time, hadn't updated Miss T's credit file, although as EUI has explained it does have a duty to provide an accurate record of Miss T's credit history. So, at some point, it was always bound to update that. As such, Miss T making a payment to satisfy the debt which had resulted from the missed payments, or EUI agreeing to hold its request for payment of the same, wouldn't have changed the fact of the default which had already occurred. Or EUI's duty to record it. Ideally EUI might have thought to advise Miss T in this respect. But I note she asked it to put its debt collection on hold and that was a separate issue to the default on the credit agreement. I know it wasn't in Miss T's mind. But I don't think I could reasonably expect that EUI should have assumed that either Miss T was labouring under that misunderstanding, or that in asking it about debt collection, she reasonably meant the default as well.

In any event, I asked Miss T to share with me a copy of her credit file. From this I can't see any sign that, at this time, any default is showing against her in respect of this insurance policy and credit agreement. So, even if I was persuaded (which I'm not) that EUI had misled Miss T in 2019, in such a way as to cause her to have an entry on her credit file which, but for its failure, could've been avoided, I can't see she's had any lasting loss as a result of that.

debt collection

I do think EUI failed Miss T in this respect. And I accept this caused her some unnecessary worry and frustration.

Miss T asked EUI to put the outstanding balance and its debt collection activity on hold whilst her initial complaint progressed through our service. EUI replied stating it would place a 60 day hold on her file. EUI didn't clarify to Miss T what would happen after 60 days. What did happen was that the hold came off automatically, and equally as automatically, its debt collection activity resumed. This meant Miss T received debt collection letters.

At the very least I think EUI should have clearly advised Miss T that, towards the end of the 60 days, she'd need to contact it again to ensure a further hold was placed on her account if her complaint with us hadn't resolved. But it didn't. And what I think EUI should have actually done was take control of the situation and manage its own debt collection activity to ensure that it knew what stage the complaint with this service was at and that its activity didn't resume again until that was resolved. From what I've seen, EUI recommenced debt collection activity three times before my ombudsman colleague issued his decision on the previous complaint on 6 August 2020. If EUI had managed things better, those resumptions in activity, along with the upset they caused Miss T, could have been avoided. I've taken the upset Miss T was caused by this into account when awarding compensation.

November's refusal, initially, to take payment

EUI does have a duty to ensure that it doesn't put a policyholder into any more financial distress than they may already be in. But I'm not persuaded that EUI has shown that the conversation it had with Miss T in November 2020 progressed reasonably in light of that duty.

I understand that in that conversation Miss T said she was or would be borrowing money in order to pay the balance in full at the reduced amount. And I accept that the phrasing 'borrowing' might raise a red flag for EUI's advisors who have to balance obtaining a payment against placing a customer under further financial stress. But here the discussion was about a trade-off between paying £120 now or a total of £160 over several months. So there would be stress and pressure for Miss T in either event. And I note that Miss T says that when she volunteered a bit more information to the representative she was talking to, she was asked more questions and the representative was persuaded to take the reduced payment. So I think the representative likely jumped to a conclusion initially, without having first gained all the pertinent facts, which caused Miss T's offer to pay the reduced amount to be unreasonably refused. I accept that Miss T was caused a fair amount of stress and worry by the initial refusal, but I bear in mind this issue was resolved quickly and during the same conversation. Nonetheless I've taken the upset into account in making my compensation award.

compensation

As I've set out above, I think that EUI, on occasion, following the conversation it had with Miss T on 1 August 2019, did fail her. I've also explained that I'm satisfied she was caused distress and inconvenience as a result. For this upset I think fair and reasonable compensation of £250 is due to Miss T.

To be clear, whilst I'm aware that EUI has paid Miss T £75 compensation already, I see this was paid in respect of upset it was satisfied it had caused Miss T by not responding to her complaint email. I am not and have not considered that issue. My decision is about, and my award is made in respect of, other failures by EUI and the consequent upset Miss T was caused. If my final decision remains the same and Miss T accepts it, EUI will not be able to deduct £75 from my £250 compensation award."

EUI said it accepted my decision. Miss T said she accepted it in the main, but she had concerns about what I'd said in respect of the default notice. She said she was re-sending screenshots which show there is a default on her file applied in January 2020. She said if this is to remain it should reflect the correct date of the default (2019) as per industry guidance.

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.

From the screenshot Miss T has provided I do see that there is a default on her credit file. But, as I explained provisionally, my colleague previously found that EUI was entitled to hold Miss T in default, and I wasn't persuaded that EUI had ever agreed to set that default aside or place it on hold.

I appreciate that Miss T is unhappy about the date of the default recorded on her credit file. She says that industry guidance says that the date recorded should reflect the date of the default – which is not the case with her record. She'd like this to be amended. I understand Miss T's concern. But the date of the recorded default was not an issue initially complained about to EUI or referred to this service. Rather, regarding the default on her credit file,

Miss T was unhappy that the default had been applied even though she had challenged EUI by making a complaint and it had agreed to put her account (actually its debt collection activity) on hold. And it was whilst that hold was meant to be in place that in January 2020, the default was recorded. So that is the issue I've assessed. If Miss T feels the date for the default recorded on her credit file should be different, she should put her concerns to EUI in the first instance.

Putting things right

I require EUI to pay Miss T £250 compensation.

My final decision

I uphold this complaint. I require EUI Limited to provide the redress set out above at "*putting things right*".

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 18 January 2022.

Fiona Robinson
Ombudsman