

The complaint

Mrs W complains that Marks & Spencer Financial Services Plc wrongly told her that her account was cleared in 2020 and then transferred it to debt recovery agents in February 2021.

What happened

Mrs W had a Personal Reserve and Chargecard accounts with Marks & Spencer and in 2016 both accounts fell into arrears. Mrs W set up a repayment plan of £20 per month with £10 being applied to each account. Mrs W says that in May 2020 she contacted Marks and Spencer as her cheque for £10 in relation to the Personal Reserve account hadn't been presented to her bank. Mrs W says she was told during that call that the balance had been "written off" and she wasn't required to make any more repayments.

In February 2021 Mrs W was upset to discover that both accounts had been transferred to a third-party debt recovery company and that she still had a balance to pay on her Personal Reserve. Mrs W was also unhappy that the Chargecard was transferred to the debt recovery company when she had maintained the repayments. Mrs W complained that this was unfair.

Marks and Spencer stated in response to the complaint that after a review of accounts it had decided to transfer the two accounts but that this was not an escalation of debt collection and that any payment plans would be honoured. It said that it had no record of Mrs W being told that the balance on the Personal Reserve account had been written off and that payments had stopped in April 2019. The business acknowledged that it had not provided Mrs W with an appropriate level of customer service and made a payment of £50.

Mrs W remained unhappy and brought the complaint to this service. Our investigator reviewed the complaint and thought that Marks and Spencer hadn't acted fairly because it hadn't sent any letters to Mrs W about the Personal Reserve account in relation to the outstanding balance. Marks and Spencer agreed to make a further payment of £75 in recognition of the upset caused.

Mrs W didn't accept that offer and said that it didn't reflect the stress and upset caused and asked for her complaint to 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.

Dealing firstly with the decision to transfer the accounts to a third party. I can appreciate why Mrs W is upset about this and I do understand her concerns. I know that she was particularly apprehensive about dealing with a third-party company and was worried about harassment to repay the debts or online scams. Whilst I understand these concerns, I can't say that Marks and Spencer have done anything wrong by transferring the accounts. They are entitled to pass them on under the terms and conditions that Mrs W signed. As Marks and Spencer has said, this is not an escalation of debt collection and the third-party company is

required to honour previous repayment plans and treat her positively and sympathetically. So, I can't say that there is any detriment to the transfer or ask Marks and Spencer to do any more about this.

Regarding the Personal Reserve account Marks and Spencer say that the last payment was made in April 2019. It is possible that this was at the conclusion of a repayment arrangement. Regrettably there is no information from the business that it did anything further after the repayments stopped. There is no evidence of any letters sent to Mrs W asking for payments or any information regarding a repayment plan. Mrs W states that in May 2020 during a telephone call she was told that there was nothing further to pay.

It seems that a payment break was applied to the account which ended in June 2020 even though Mrs W wasn't making any repayments. Given the timing, this is likely to have been in response to the Covid 19 pandemic. In February 2021 the account was then transferred to a third party and the letters to Mrs W began again. I know that Mrs W said she didn't receive some of these letters but I've no reason to believe they weren't sent.

I don't know exactly what was said to Mrs W about her account but it seems likely that she was incorrectly told that it had been "written off". This would explain why she stopped making payments and why there were no attempts to re-start the payments. I can see that she had regularly stuck to the previous arrangement and also continued to pay the amount in relation to the other account so I don't think she was trying to avoid paying.

Just because Marks and Spencer may have given her incorrect information doesn't mean that it is fair for it to now write off that debt. Mrs W has had the benefit of the money and so I think it is only fair that she should pay it back. As it is a defaulted balance there should be no additional charges or interest added.

I do think that the situation has caused Mrs W trouble and upset and I know that she was upset to discover that the balance was still outstanding. I agree with the investigator that the £75 offered by Marks and Spencer in addition to the £50 already paid is fair and reasonable to resolve this complaint.

I appreciate that Mrs W isn't happy with this and I don't underestimate how upsetting this has been for her but for the reasons I have outlined I think the offer of £75 is fair and reasonable. As this amount is compensation for trouble and upset it should be paid to Mrs W and not used to reduce the debt.

Putting things right

Marks & Spencer Financial Services Plc should pay Mrs W £75.

My final decision

My final decision is that I uphold this complaint and Marks & Spencer Financial Services Plc should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 10 November 2022.

Emma Boothroyd
Ombudsman