

The complaint

Mr A complains about the management and administration of his 'account' by Creation Financial Services Limited ("Creation"). In particular Mr A is unhappy with information recorded by Creation with one or more third party credit reference agencies in respect of his account.

What happened

In 2017 Mr A purchased some furniture costing £3,769.64 from a company that I will call "B". Mr A financed the purchase with a fixed sum loan agreement ("agreement") with Creation.

Under the terms of the agreement Mr A, everything else being equal, undertook to pay a deposit of £377.00 followed by 36 monthly payments of £94.24 (commencing March 2018), making a total repayable of £3,769.64 at an APR of 0%.

Mr A paid the deposit of £377.00 followed by one monthly payment, in March 2018, of £94.24. This meant that as of April 2018 Mr A still owed Creation £3,298.40.

In February 2019, and having received no further payments from Mr A, Creation recorded Mr A's account as being in default with one or more third party credit reference agencies.

In August 2020 one of our investigators, following a complaint made to our service by Mr A, found that Creation should pay Mr A £250.00, withdraw the charging order it had secured against his property and remove any adverse information it may have recorded with one or more third party credit reference agencies.

In November 2020 Creation paid Mr A £250.00.

In February 2021 Creation confirmed to Mr A that it had withdrawn the charging order it had secured against his property and that somebody would be in touch with him to make arrangements for repayment of his liability. But Creation confirmed to Mr A that it wasn't prepared to amend the adverse information it had recorded with one or more third party credit reference agencies because this information was (in its view) an accurate reflection of his account with it.

In March 2022 Mr A complained to Creation that nobody had been in contact with him to make arrangements for repayment.

In May 2022 Creation issued Mr A with a final response letter ("FRL"). Under cover of this FRL Creation apologised it hadn't been in contact to make arrangements for repayment (and it would be in contact in this respect shortly) and to confirm it would credit Mr A's account with £100 by way of an apology.

In May 2022 Creation credited Mr A's account with £100. This brought his liability down to £3,198.40 (from £3,298.40 outstanding since April 2018).

In May 2022 Creation called Mr A to make arrangements with him for repayment. Mr A said he was prepared to pay £94.24 a month but only after his credit file had been “cleared”. However, this proposal wasn’t acceptable to Creation because it wasn’t prepared to make any changes to the adverse information it had reported, and was reporting, to one or more third party credit reference agencies.

In June 2022 Creation advised Mr A that if he didn’t contact it within seven days to pay it (or make arrangements to pay it) the sum outstanding and owing on his account it would instruct a company that I will call “T” to contact him.

In July 2022 T contacted Mr A as Creation advised, in June 2022, would be the case if Mr A didn’t contact it within seven days to pay it (or make arrangements to pay it) the sum outstanding and owing on his account.

Mr A’s complaint was considered by one of our investigators who came to the view that it should be upheld, and that Creation should remove all adverse information it had recorded with one or more third party credit reference agencies in respect of Mr A’s account.

Mr A accepted the investigator’s view, but Creation didn’t respond to it. And because of Creation’s lack of a response Mr A’s complaint was passed to me for review and decision.

In January 2023 I issued a provisional decision on this case. In summary I said:

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having done so I can confirm that I’m satisfied that Creation has done enough to compensate Mr A and it need do nothing further, and this includes the removal of ‘adverse’ information it has recorded with one or more third party credit reference agencies.

Based on a credit report supplied by Mr A, from one of the third party credit reference agencies, the following information has been recorded by Creation:

- | | | | |
|-----------------------------------|-----------------|--------------------------|----------------|
| • September 2018 to February 2019 | status code “6” | (6 months arrears) | |
| • March 2019 to June 2020 | status code “U” | (in dispute) | |
| • July 2020 to December 2020 | status code “8” | (in default) | |
| • January 2021 to March 2021 | status code “8” | (in default) | balance £3,298 |
| • April 2021 to May 2022 | status code “?” | (nothing being reported) | balance £0 |
| • June 2022 to December 2022 | status code “8” | (in default) | balance £3,198 |

Having had regard to what both parties have said and submitted I’m satisfied that the above is a true reflection of Mr A’s account status. And it should be remembered that a business is under an obligation to report correctly and accurately the status of its customers’ accounts to third party credit reference agencies because this reported information is relied upon by other businesses when deciding whether to grant credit.

Now I accept that one of our investigators, in August 2020, found that Creation should remove any adverse information it may have recorded with one or more third party credit reference agencies. But as this was the view of one of our investigators, rather than a final determination by one of our ombudsmen, Creation was under no obligation to do what it was being asked. And as Mr A is aware, Creation didn’t do what it was asked.

Mr A took the decision to stop making his monthly payments to Creation in April 2018. This means that in February 2019 – when default was registered by Creation – Mr A was 10 or 11 months in arrears.

Now I can understand that Mr A was unhappy with the quality of an item he had purchased from B, but the option was open to him to continue making his contractual payments whilst his concerns in this respect were being investigated by Creation and he elected not to do so. It was also open to Mr A, as an alternative, to make reduced payments to Creation, but again, he elected not to do so. Furthermore, Mr A didn't commence payments once the quality issue with the relevant item had been rectified in, as I understand it, July 2018.

So, given that I think it's both fair and reasonable for a business to default an account when it's between three and six months in arrears I find that Creation did nothing wrong in recording Mr A's account, with one or more third party credit reference agencies, in February 2019 as being in default.

Although in July 2022 Mr A was looking for Creation to remove all adverse information it had recorded with one or more third party credit reference agencies before recommencing payments to it, I don't think this was a reasonable stance for Mr A take. In my view what it would have been fair and reasonable for Mr A to have done was to recommence payments to Creation but on the basis that he didn't accept that adverse information recorded with one or more third party credit reference agencies by Creation shouldn't have to be removed by it and this issue should be subject to an investigation – and a finding – by our service.

Now I say the above because even if I was to find that Creation should have, in line with our investigator's findings in August 2020, removed the adverse information (including the registered default) in August 2020 (or shortly afterwards) it would, in my view, have been entitled to register a new default in late 2022 after Mr A refused to recommence payments in July 2022. And this would be more detrimental for Mr A because defaults remain recorded for six years. Put another way, the current recorded default will be removed in February 2025 whereas any new default registered in late 2022 wouldn't be removed until late 2028.

So, given what I say above and given that Creation has already paid Mr A (by way of an account credit) £100 for having not been in contact with him between February 2021 and April 2022 to make arrangements for repayment it need do nothing further.

Creation responded to my provisional decision to say that it accepted it.

Mr A responded to my provisional decision to say that he didn't accept it. In summary he reiterated his previous submissions and to say he wouldn't pay Creation anything until it "clear[s his] credit file of any defaults and [he would] get a solicitor if [he had] to".

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.

Given that Creation accepted my provisional decision and Mr A added nothing materially new for my consideration, Mr A simply reiterating his previous submissions all of which I took into account before I issued my provisional decision, I can confirm I see no good reason to depart from my provisional findings and I now confirm them as final.

My final decision

My final decision is that having credited Mr A's account with £100 Creation Financial Services Limited need do nothing further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 17 February 2023.

Peter Cook
Ombudsman