

The complaint

Miss S complains that Clydesdale Financial Services Limited trading as Barclays Partner Finance (BPF) unfairly registered a default which she only found out about when applying for a mortgage.

Miss S is represented in bringing this complaint. But for ease of reading, I'll refer to any submission and comments he has made as being made by Miss S herself.

What happened

Miss S says she took out a loan with BPF, but she found out a default had been registered with the Credit Reference Agencies (CRA's) when she applied for a mortgage. She had been sent a default notice on 22 December 2019 asking her to pay £153 before 24 January 2020. Miss S made a faster payment of £510 on 23 January 2020 at 8:39pm. So she believed she took the action required to avoid a default. Miss S made a complaint to BPF.

BPF did not uphold Miss S's complaint. They said the funds cleared to the account on 27 January 2020, so as the notice required this balance to be cleared before the given date, she did not meet the condition of the default notice. Miss S brought her complaint to our service. She said she had lost out on a house purchase as a result of the default and therefore she wanted compensation for the associated costs of this and the default removed.

Our investigator partially upheld Miss S's complaint. She said as Miss S didn't make the required payments to the loan account in October, November and December 2019, BPF were entitled to issue a default notice. She said currently BPF is reporting that Miss S didn't remedy the breach in time, but aside from the length of time it takes for them to reconcile their accounts, Miss S remedied the breach in time. Our investigator said that there wasn't enough evidence to say the default meant she couldn't get a mortgage as Miss S had missed multiple payments on her loan account, which also would've had an impact.

Miss S asked for an Ombudsman to review her complaint. She made a number of points. In summary, she said BPF's final response letter contained a number of inaccuracies, the default was registered earlier than the date in the default notice, which rendered it invalid, she was told in a call on 24 January 2020 that no further actions would be taken in respect of the default, mortgage advisers confirmed the reason that the mortgage wasn't approved was because of the default. Miss S also wanted solicitors fees, estate agent fees, broker fees, the difference in interest rates increasing on mortgages to be compensated to her in addition for distress and inconvenience she suffered due to BPF's actions. She said they had acted unlawfully.

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 S has made a number of points to this service and I've considered and read everything she's said and sent us. But, in line with this service's role as a quick and informal body, I'll be

focusing on the crux of her complaint in deciding what's fair and reasonable here.

Miss S has mentioned BPF acting unlawfully. But if Miss S wants a decision that BPF have breached any laws, then she'd need to go to Court. Our service acts as an informal dispute resolution service for complaints about financial businesses. We look at the circumstances of individual complaints and, on a case by case basis, taking into account relevant law, regulations and industry guidance amongst other things, make findings about what is fair and reasonable in all the circumstances of a complaint.

Where we find it has, we make awards designed to make the business put things right with the complainant customer. Our awards are not designed to punish a business or to make it change the way it acts in order to protect other customers in the future. That is the role of the regulator.

I've had a look at the default notice that Miss S was sent. This states that *"To remedy the breach, you must pay the above arrears (£153) before 24/01/20."* The notice goes on to say that *"If the action required by this notice is taken before the date shown no further enforcement action will be taken in respect of the breach"*. The notice also shows ways that Miss S can make payments. The notice is clear for her to *"please allow up to 5 working days for processing, cheques may take longer"*. But Miss S did not allow for five working days. It was less than four hours before the deadline that she made a payment.

Miss S has provided evidence that she made the payment required to pay her arrears and an extra amount at 8:39pm. So she did in fact take action before the deadline. This credited her account on 27 January 2020 – after the deadline given. BPF's systems show the transaction date that this payment was made was 24 January 2020 and not 23 January 2020. It is not clear why the date is different but based on the time the payment was made (and therefore the time it was received), it's likely that any cut off period had been missed to show this as being reflected on 23 January 2020 by the time they received this money into their account as faster payments are not always instantly received by the recipient.

The default notice letter shows for payments made over telephone/online banking to *"allow at least 7 days before your payment is due"*, but again, Miss S did not do this. Although typically a faster payment may only take up to two hours to reach a recipient, here, a reference number was given on the default notice, which did not match up to the reference on the receipt Miss S provided to us, so it's likely this could be a factor in why the payment took longer to be credited to her actual account.

BPF registered the default earlier than they should have done. Based on the information on the default letter, the default should have not been registered prior to 24 January 2020. So I'm satisfied that the fairest thing for BPF to do here is that based on Miss S making a payment prior to the deadline (even though she didn't allow for the processing timescales they gave her) to remove the default, based on her genuinely trying to avoid a default prior to the deadline given. And BPF had accepted the view of our investigator to do this, which I was pleased to see. But we would not look to punish the business for registering the default a day early than they should have done as I'm satisfied that BPF could have registered the default the following day when it appeared Miss S did not make the payment in time, and it hadn't cleared to her account until three days after the deadline.

I've considered what Miss S has said about the inaccuracies in the final response letter. BPF's system does show that Miss S made the payment by standing order on 24 January 2020. And although Miss S has proved it was made by a faster payment on 23 January 2020, I'm not persuaded that they have mislead her with the information in the letter as this was what the system showed the complaint handler. So although Miss S has proved that it was made by faster payment on 23 January 2020, I can't say this information should be

more than a minor frustration that Miss S would have and therefore I'm not satisfied that compensation would be proportionate here.

I've considered what Miss S has said about the default being the reason she was declined for a mortgage and therefore BPF should pay the costs she incurred here. But I'm not persuaded that the default was the sole reason for her being declined for the mortgage. I say this as despite reading what the mortgage adviser/broker involved have said about this issue, the potential mortgage provider says *"Your personal credit history was assessed during the application, using a service provided by (a CRA) and did not meet our requirements. Unfortunately we're unable to discuss the credit search results with you for legal reasons."* It also says *"We reviewed your application taking into account all the information available to us and unfortunately it does not meet our application scorecard requirements."*

At no point is it mentioned by the mortgage provider that the sole reason for the decline was the default. BPF have sent us Miss S's statement which shows on her account alone, since March 2017, that she had 13 occasions where a direct debit was unpaid. As she had missed payments which led to the default notice, then it's likely that the multiple missed payments would have also been taken into account by the mortgage provider. And one of the Financial Planning Consultants that Miss S dealt with said when they called the lender as to why there was a decline, he was told *"We reviewed your application taking into account all the information available to us and unfortunately it does not meet our application scorecard requirements."* So again, this does not explicitly state that the default was the sole reason for the decline. And therefore I can't agree to award Miss S solicitors fees, estate agent fees, broker fees, the difference in interest rates increasing on mortgages to be compensated as there has been no evidence from the mortgage provider that this is the sole reason the mortgage was declined.

I've considered what Miss S has said about her being told in a call on 24 January 2020 that no further actions would be taken in respect of the default. So I asked BPF if they could provide me with the call recording. Unfortunately, this was not available due to a migration issue with their systems in 2020. So I'm unable to rely on the call here to listen to exactly what was said. The notes left after the call show that Miss S had rang them up to let them know she made a bank transfer for £510, but it wasn't showing up yet and they informed her it would take 24-48 hours to update. The notes continue to say that Miss S wanted to know whether this would clear her balance and they confirmed that it would. But the notes show Miss S was informed about CRA's. So it does look like they told her about the impact this would have with the CRA's – although I'm unable to say what exactly was discussed. But I do think it's fair on this occasion for BPF to remove the default for the reasons I've already given. So it follows I'll be asking BPF to put things right for Miss S.

Putting things right

Our investigator suggested that BPF stop reporting the account as defaulted on 23 January 2020 which I think is reasonable in the circumstances.

My final decision

I uphold this complaint in part. Clydesdale Financial Services Limited trading as Barclays Partner Finance should arrange for the default they registered to be removed from Miss S's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 11 April 2023.

Gregory Sloanes
Ombudsman