

The complaint

Miss S is unhappy that two of her accounts she held with Creation Consumer Finance Ltd are still showing on her credit file.

What happened

Miss S opened two accounts with Creation, in 2009 and 2011. Miss S believes they should no longer be showing on her credit file. In 2016 the accounts were sold to a third party (who I'll call L). L are currently reporting both accounts on her credit file.

Our investigator didn't uphold the complaint. However, he later explained he thought the accounts should've been defaulted in 2012 given that they hadn't been maintained. In summary, he said Creation should remove all adverse information recorded on Miss S' credit file regarding the two accounts and pay £600 compensation.

Creation agreed to the compensation but said they could only remove the adverse information once the balances had been cleared. Miss S remained unhappy that the accounts would still be showing on her credit file. As a result, the complaint has been passed to me to decide. I issued a provisional decision. I've included an extract of that below:

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.

Miss S' loans

Having looked at the correspondence provided to us, Miss S' accounts seem to have been in difficulty since at least 2012 and it does seem Creation may have been assisting Miss S at this time. However, I think there should have been a point where Creation defaulted both accounts. Had Creation defaulted Miss S' accounts, interest and charges would've been suspended and Miss S' balances wouldn't have increased. In addition to this, the impact on her credit file would diminish.

It's unclear which date exactly in 2012 the accounts should've defaulted. However, Miss S has provided us with a default notice dated April 2012 (although it is difficult to read), and an email dated May 2012 which states her repayment offers have been rejected and that both accounts are due to default 17 days from the issue date of the notices. So I think the accounts should have defaulted around this time and at the latest by the following month, in June 2012. As such, I think Creation should refund interest and charges from 1 June 2012.

To put things right, Creation should do the following:

- *Add up the total amount of money Miss S received as a result of having been given both loans. The repayments Miss S made should be deducted from this amount.*
- *Creation should also deduct any interest, charges and fees applied since 1 June*

2012 because these would not have been applied had the accounts been defaulted.

If this results in Miss S having paid more than she received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). †

If any capital balance remains outstanding after the refunds have been made, Creation should continue to work with Miss S to arrange an affordable and suitable payment plan.

† HM Revenue & Customs requires Creation to take off tax from this interest. Creation must give Miss S a certificate showing how much tax it's taken off if she asks for one.

Had creation defaulted the accounts in 2012, these would've been removed from Miss S' credit file in 2018 so I think it's fair Creation remove all adverse information about the accounts. Creation have said they can't remove the adverse information until the balances have been cleared but that isn't a fair resolution to this matter as it means Miss S will continue to be caused detriment by adverse information on her credit file which should not be there. Creation should find a way to:

- *remove all adverse information recorded on Miss S' credit file in relation to both loans (regardless of the balances).*

Miss S is concerned Creation won't remove adverse information from all the credit reference agencies. So to be clear this removal of the accounts should be reflected across all credit reference agencies.

As Creation has sold the debt to L, it should arrange to either buy back the debt from them or liaise with them to ensure the redress set out above is carried out promptly.

Recent search on Miss S' credit file

Miss S has provided evidence from her credit file under the heading "searches that may impact your credit score", Creation carried out an enquiry on her in October 2021. Miss S says she doesn't know what this relates to and Creation haven't commented on it when our investigator asked. As there doesn't appear to be a reasonable explanation it seems the search should not be on Miss S' credit file. In order to put this right, I think Creation should

- *Remove this search from Miss S' credit file.*

Compensation

Although Miss S says she hasn't made her complaint to be awarded compensation, I have considered whether Creation should award compensation for the distress and inconvenience it caused to her. I think it should, I'll explain why.

Miss S is vulnerable and has clearly been through a difficult time. Her mental health has meant she's been unable to work. Miss S explained that as Creation didn't default the accounts, this has significantly prolonged the impact on her credit file and she has felt anxious and suicidal. I also understand this is having a physical impact on her. Creation could have avoided some of this distress had it defaulted Miss S' loans in 2012, as the accounts would have been removed from her credit file by 2018.

Miss S is also understandably concerned about the way Creation handled things when she complained. For example, in August 2021 when Creation explained their understanding of the complaint, one of the bullet points said Miss S was unhappy that her credit file showed

an incorrect default date, but this wasn't what she'd said. So this has added to her frustration. In Creation's final response letter, it said the accounts are no longer on her credit file and that it was unable to say when the information was removed because there is no history available. But I've seen Miss S' credit file which does show her accounts are still being reported (albeit by L). So I can understand why it was confusing and frustrating for Miss S. And given her specific personal circumstances, I think this had a considerable impact on her.

- *Taking everything into account I think Creation should pay Miss S £600 compensation. This should be paid directly to Miss S, and only applied to her debt(s) if she wishes to do so.*

My provisional decision

My provisional decision is that I uphold this complaint and I intend to require Creation Consumer Finance Ltd to put things right as outlined above.

Miss S had some questions about the proposed redress should this be awarded in a final decision, which I answered and shared with Creation. But overall, she accepted my findings.

Creation replied to say Miss S responded to the default notice and a repayment plan has been in place and maintained since April 2012. They say this shows Miss S clearly wanted to avoid a default. They provided a history of the loan transactions and say the repayment plan would have stopped any interest and charges being applied.

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.

Although I accept Miss S may have entered into a repayment plan in April 2012, having looked at the transaction history for each loan I can see that she was paying far less than the contractual amount. For example her loan ending *924 should've received contractual repayments of approximately £80 per month but by April 2012 this reduced to approximately £7 and from 2013 the repayments remained under £5 per month. I also note with her loan ending *759 repayments were initially approximately £190 in 2009 but by April 2012 this had reduced to about £22. Although payments varied slightly, they kept at around about £15 per month from August 2013 onwards.

Although Creation have explained they tried to assist Miss S in avoiding a default, the repayment plans in place shouldn't have been a long-term measure. I think it would have been evident to Creation in 2012 that it would take Miss S a considerably long period of time to repay the loan based on the amounts that she was able to repay each month. I say this because in April 2012 loan *759 had an outstanding balance of approximately £5,200 but the payments being received were around £22. Similarly, loan *924 had an outstanding balance of approximately £1,600 in April 2012 but the payments being received were around £7. So at that point in time, it would have taken Miss S about an additional 20 years to clear her balances. So I don't think it's unreasonable to have expected Creation to default the accounts in 2012.

But even if I accept Creation wanted to give Miss S the opportunity to bring her account up to date by agreeing a repayment plan, I think this should have been reviewed and Creation should have recognised this wasn't an appropriate long-term measure by at least the end of 2012. And even if the accounts should have been defaulted around this time (rather than

June 2012), I don't think this makes a material difference to the outcome of the complaint. I say this because the defaults would have dropped off Miss S' credit after six years, and we're now in 2023. So if the loans had been default in 2013, or even 2014, they would no longer be reporting on Miss S' credit file.

Miss S queried whether all information about both accounts would be removed from her credit file or whether they just needed to remove adverse information. I have explained to both parties that all adverse information should be removed. As Miss S' accounts should have defaulted by around 2012, these should no longer be showing on her credit file. So this means that all information about both accounts should be removed from Miss S' credit file entirely. This should be reflected across all reports provided by the various credit reference agencies.

Creation have raised concerns about updating Miss S' credit file partly because the accounts still have balances outstanding but my decision is that the accounts should be removed from Miss S' credit file regardless of any outstanding balances.

Creation queried what interest and charges should be refunded. They've said that these were suspended in 2012 when a repayment plan was agreed and some interest would be front loaded. As interest and charges have been suspended since 2012, there won't be anything for Creation to refund. In terms of the front-loaded interest (i.e the interest applied at the time Miss S took the loans), I wouldn't expect Creation to refund this as Miss S has had the benefit of the funds.

Creation haven't commented on the search they recorded in October 2021. I see no reason why this should be recorded based on what Miss S has told us. So for that reason I still think Creation need to remove this search.

Following the provisional decision, Creation didn't add any further comments regarding the compensation I outlined. Miss S accepted what I'd said. So I see no reason to depart from the findings reached in my provisional decision about the compensation and still think Creation should pay Miss S £600.

Putting things right

To summarise, as for the reasons I've explained above and in my provisional decision, Creation need to:

- remove all information recorded on Miss S' credit file in relation to both loans (regardless of the balances);
- remove the search recorded in October 2021 from Miss S' credit file; and
- pay Miss S £600 compensation. This should be paid directly to Miss S, and only applied to her debt(s) if she wishes to do so.

My final decision

My final decision is that I uphold this complaint. Creation Consumer Finance Ltd need to put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 17 March 2023.

Marie Camenzuli
Ombudsman