

## The complaint

Miss B has complained Creation Consumer Finance Limited (Creation) is holding her liable for a credit agreement she doesn't recognise.

## What happened

Miss B is unhappy Creation is holding her liable for a credit agreement. Miss B acknowledges she had a credit agreement she took out with Creation to pay for goods from a supplier I'll call 'C' in 2016/2017. This agreement was settled in 2021. I'll call this 'agreement 1'. The agreement Miss B says she doesn't recognise was taken out in April 2017 and it was also used to buy goods from C. I'll call this 'agreement 2'. Both agreements were regulated running account credit agreements. Creation says Miss B used agreement 2 to buy a laptop for around £800. And the total amount payable was around £1,000.

Miss B says she was contacted in 2021 about agreement 2 by a third-party debt recovery company. Miss B queried the debt and said if the product was something she recognised she be happy to pay for it but not the interest for all the years Creation hadn't contacted her about it. Creation says letters would have been sent to Miss B about the debt. It also supplied the credit agreements for agreements 1 and 2 which both have Miss B's name and address recorded, and it said there's no reason they wouldn't have been delivered to her.

Creation explains a £100 repayment was made towards agreement 2 not long after it was opened, indicating Miss B was aware of the debt. It says she would have had two direct debits set up for agreement 1 and 2. Creation says it spoke to Miss B about non-payment of the debt and a payment arrangement was put in place for £10 monthly, but this wasn't kept to. Creation says the debt was passed to a third-party collection company, but it was returned to Creation after it received letters about a medical issue. Creation says it requested a financial statement from Miss B, but nothing was received.

Creation says Miss B spoke to it in November 2021 to say she thought she'd paid her account off in full. She complained to Creation, but it didn't uphold her complaint. It also looks like Miss B was unhappy she wasn't passed through to a manager when querying the debt. Creation said it thought Miss B ought to have been aware of the debt and that it was valid.

Miss B brought her complaint to the Financial Ombudsman to consider. When sending its file to our service Creation said it noticed an insolvency hold was placed on the account in November 2021 and taken off in October 2022. It said it did this in error and that the hold would have stopped correspondence being sent. It offered £200 compensation for this. Due to the time that's passed, Creation wasn't able to supply copies of all the documentation it referred to.

One of our investigators looked into things and noted Creation had explained most of the details supplied for agreement 2 were the same for agreement 1. This included Miss B's name, address, date of birth, telephone number and direct debit details. The only information that was different was an email address, but Miss B confirmed both emails were hers – although she says one was an old email address she thought might have been

compromised. Creation also said its records indicate a driving licence was supplied during the application for agreement 2 – although it wasn't able to supply a copy of it.

Our investigator said she hadn't seen enough to say Creation was wrong to open the account or that it was opened fraudulently. She noted Miss B said she had fraudulent activity on another account, but no further evidence was presented. Our investigator thought the £200 compensation for incorrectly putting on a hold on the account was fair. She made no further recommendations.

Miss B didn't agree with the assessment. She says she referred the matter to trading standards, the police, and Action Fraud. Miss B gave the details of this to Creation. And she asked if the Financial Ombudsman could wait on the outcome of that.

As things couldn't be resolved, the complaint has been passed to me to decide.

### **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.

Creation is seeking money under a regulated credit agreement and our service is able to consider complaints relating to these sorts of agreements. Miss B has focussed on whether the debt is valid, so I've concentrated on this primarily when deciding the complaint.

I appreciate Miss B would like us to wait for the outcome of her referral to Action Fraud, but I'm required to resolve complaints quickly and with minimum formality. I have no idea how long that investigation will take to conclude. So I'm going to issue a decision based on the evidence we have available and which Creation has had the chance to respond to in its final response. If Miss B is unhappy about something new Creation does in the future, it may be a complaint we can consider for her. But I'll go on to consider what has already happened.

Due to the time that's passed Creation hasn't been able to supply everything we've asked for. So I've based my decision on what we have.

Miss B says she doesn't recognise the agreement, and that she doesn't have the laptop purchased with agreement 2. So there are a few possibilities for what might've happened that I've considered.

1. Someone else took out agreement 2 without Miss B's authority.
2. Miss B gave someone some sort of authority to take out agreement 2 on her behalf.
3. Miss B bought the goods using agreement 2.

I've first thought about point 1 above. It's of course possible that Creation or indeed C set up the agreement for the laptop without Miss B's permission. After all, most of the application details were exactly the same. So they could have simply been transferred over. But I'm mindful a different email address was used in the application. Miss B has confirmed this is her email address. I find it unlikely Creation or C would have known this different email address. Moreover, if a fraud or error had taken place, I don't think any payments would have been made towards the agreement by Creation or C. So, on balance, I find don't find it likely Creation or C opened the agreement without Miss B's knowledge or authority.

Miss B has mentioned it might've been an ex-partner that took out the agreement without her knowledge or permission. I'm conscious that payments were made towards the agreement, albeit not everything required. It's unlikely a fraudster would have paid anything towards the agreement, but I accept, in theory, her ex-partner may have made payment to conceal the

fraud from Miss B. But I simply don't have enough supporting evidence of this, so it's difficult for me to conclude that's the most likely thing to have happened.

Moreover, while I don't have evidence of the letters that were sent to Miss B shortly after agreement 2 was opened, on balance, I think Creation did send correspondence to her. So it's not clear why she didn't notice agreement 2 had been set up and contact Creation to say she didn't recognise it. Creation's notes indicate she spoke to it about the debt and so was aware of it.

On balance, I don't think the evidence, from what I've been supplied, points to the agreement being taken out by Miss B's ex-partner without her permission. However, I do note Miss B has said she's taken the complaint to the police and Action Fraud. So if this develops and more evidence comes to light, or her ex-partner is charged, for example, I'd expect Creation to take this evidence on board when deciding if something needs to be done to put things right.

I've thought about point 2 above. Neither party has suggested Miss B gave someone authority to open the account on her behalf, so I accept this is unlikely to be what happened.

Turning to point 3, Miss B has said she doesn't recognise the debt and doesn't have the laptop. But I note she's been clear she would pay for the debt if it could be shown she took out agreement 2. So perhaps she did take it out, but simply doesn't recall doing so. It was from quite a long time ago after all. Based on all the application details being hers; payments being made towards the debt; along with the conversations Creation say take place, on balance, I think Creation isn't acting unfairly by deciding that the most likely thing to have happened is that Miss B took out the agreement. Therefore, I don't find I have the grounds to direct Creation to stop pursuing Miss B for the debt.

Finally, I've also thought about Creation's response to incorrectly putting the agreement on hold. Technically, a lot of this event happened after the final response letter. But I think it makes sense to deal with it under this complaint. I don't think the hold caused Miss B significant detriment because she wasn't being contacted about the debt, and no interest was applied during that period. I think Creation's offer of £200 compensation for the mistake seems broadly fair in all the circumstances. I'm not going to direct it to do more.

### **My final decision**

Creation Consumer Finance Limited has already made an offer to pay £200 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that, to the extent it's not already done so, Creation Consumer Finance Limited should pay Miss B £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 28 August 2023.

Simon Wingfield  
**Ombudsman**