

The complaint

Mrs B complains Creation Consumer Finance Ltd (“Creation”) have incorrectly reported one of her accounts as defaulted to credit reference agencies. She’s also said Creation irresponsibly provided her with three credit accounts.

Mrs B is represented on her complaint, but for ease I’ve referred to all submissions as though they are her own.

What happened

Mrs B was provided with the following credit facilities by Creation:

Account type	Date of lending	Value of lending (approx.)	Term (months)	Monthly repayment (approx.)
Running credit facility	21 December 2016	£2,000 limit	N/A	Variable
Fixed term loan (loan one)	7 April 2017	£1,407	36	£39
Fixed term loan (loan two)	21 April 2017	£2,016	36	£56

In September 2022 Mrs B complained to Creation. She said she wasn’t made aware that loan one would be – or had been – defaulted in 2019, until she found this out in August 2022. She said the default is incorrect and should be removed from her credit file.

Mrs B also said Creation hadn’t completed reasonable and proportionate checks before providing her with each of these three credit facilities; and that had it done so it would have identified these facilities were unaffordable for her as she was unemployed and had an income made up solely of benefits. She says for this reason Creation irresponsibly provided her with these credit facilities.

Creation issued its final response in October 2022. It said loan one was being correctly reported as having been defaulted in 2019 as it was a true reflection of the account status. It also said it’s checks were reasonable, and that it went on to make fair lending decisions when providing each line of credit. Mrs B didn’t accept Creation’s outcome and brought her complaint to our service for consideration.

Our investigator reviewed Mrs B’s complaint and upheld it in part. He said the evidence suggested Creation were acting fairly by reporting loan one as defaulted; but he felt it should have defaulted the loan earlier. So, he recommended Creation backdate the default to 2018.

In relation to Mrs B’s unaffordable lending complaint, he said Creation’s checks at each lending event weren’t reasonable and proportionate; but, based on the evidence he now had and what Creation would likely have obtained at the time, he concluded Creation would reasonably have still reached the same decisions to lend.

Creation accepted our investigator’s outcome; Mrs B didn’t. She replied with a number of points for our investigator to consider. These solely focused on the default aspect of the complaint rather than the lending decisions. Our investigator reviewed these additional

points and discussed the details with Mrs B and her representative; and set out why he considered his outcome was still fair and reasonable in the individual circumstances.

Mrs B asked for an ombudsman's review, so the complaint's 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.

Having done so I've reached the same outcome as our investigator, for broadly the same reasons. I appreciate this will be disappointing to Mrs B.

The default being reported to credit reference agencies against loan one

Mrs B says she had no knowledge of the default being applied to loan one in 2019; and that she received no correspondence from Creation notifying her that the account would be defaulted. Mrs B has questioned why would she maintain agreed payments to only two of the three accounts, resulting in one being defaulted. She's said she believed the payments she was making to Creation covered all three of the accounts she had.

I've carefully considered Mrs B's testimony and the documentary evidence Creation has presented. I don't doubt anything Mrs B has said, but my role here is to weigh up the evidence from both sides and reach a decision based on that evidence. Where there is missing or conflicting information I need to decide, on balance, what I consider more likely to have happened in the individual circumstances.

Creation has provided us with screen shots from its internal systems. These screen shots show dates with letter codes being sent to Mrs B in relation to loan one. Although Creation hasn't been able to provide us with the actual letters sent to Mrs B, it has provided us with the templates of the letters.

On review of this information I consider, on balance, it more likely Creation did send notices of arrears and notices of intention to default letters to Mrs B; and by doing so it reasonably met its regulatory obligations by making Mrs B aware of the status of loan one and the actions that would be taken if the arrears weren't cleared.

I appreciate Mrs B has said she didn't receive these letters. She's also asked why Creation wouldn't have looked to correspond with her by another communication channel; and that in her experience systems can retrospectively be amended to manipulate data.

As our investigator set out, it was Creation's regulatory obligation to send these notices, not to ensure they were received. By sending the notices it met the requirements placed on it. And I can't find Creation responsible for any possible problems Mrs B had with receiving these letters, especially as I've seen no information to suggest Creation was aware Mrs B had any concerns with receiving post.

There is no requirement on Creation to make Mrs B aware of the notice of arrears or default by any means other than letter – and as I've found above, as there were no known concerns with Mrs B receiving post, I don't find its actions here were unreasonable. I've also seen no evidence to suggest or cause me any reason to bring into question Creation's timeline of events and when correspondence was sent to Mrs B.

So, taking all the above into account I'm satisfied Creation reasonably made Mrs B aware of the status of loan one and the actions that would be taken, including defaulting the account,

if it wasn't brought back in line within the set out timeframe. I agree, however, that the account should have been defaulted earlier than it was. I say this because Creation issued Mrs B with notices of arrears letters as early as November 2017, as well as making her aware at this time that her direct debit instruction had been cancelled by her bank. And on 4 June 2018 it sent a notice of default if the arrears weren't cleared.

Creation didn't report the account as defaulted until December 2019. However, I consider it would have been reasonable for Creation to have looked to default loan one as early as 4 July 2018, one month after the notice of default was sent to Mrs B and she'd been given reasonable time to bring the account back in line. I've noted that Creation stopped adding interest and charges to the account in May 2018, so although the default wasn't added as early as I've found it should have been, it doesn't appear Mrs B incurred any additional interest or charges as a result.

So, I'm satisfied the account was fairly defaulted given its status, but that this default should reasonably have been registered on 4 July 2018.

Unaffordable lending

In response to our investigator's assessment Mrs B's concerns have centred around the default – she made no reference to our investigator's outcome on the unaffordable lending part of the complaint. In fact, having listened to the calls that followed our investigator's view Mrs B has said she isn't looking for financial recompense – but that the outcome she is seeking is for the default to be removed from her credit file.

Although Mrs B's main focus appears to be in relation to the default, for completeness I've considered the unaffordable lending of the three accounts approved by Creation.

While I've not gone into the detail of each account within my decision, I would like to assure Mrs B and Creation that I have carefully considered all of the evidence that I have on file.

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. And our investigator set this out in his assessment, so both Mrs B and Creation are aware of this.

Creation says its checks at the point of the initial running credit facility included obtaining Mrs B's declared household income as well as a review of her credit file. It says it conducted the same checks at the two subsequent loans.

Having considered Creation's arguments, I'm not persuaded its checks were reasonable and proportionate at the point of any of these three lending events.

I say this because, as our investigator has set out, Mrs B was provided with a relatively sizeable initial running credit facility limit. While the credit check Creation obtained appeared to cause it little to no concern; Creation was relying on Mrs B's household income without obtaining details or understanding the household expenditure.

Loans one and two were provided within four months of the running credit facility, and within weeks of each other. At the point of loan one Creation could see from its checks that Mrs B had relatively significantly increased her revolving debt on credit cards in comparison to her position four months prior, now standing at three times the previous level. I consider the frequency of obtaining additional credit in such a short period of time, together with not understanding Mrs B's household expenditure, ought reasonably to have led Creation to

complete more detailed checks to ensure it had a full understanding of her financial situation, before approving these credit accounts.

As Creation didn't complete reasonable and proportionate checks, I've gone on to consider what further checks would likely have shown. Mrs B has provided us with joint bank account statements covering September 2016 to April 2017. She's also confirmed to our service that income and expenditure was pooled within the household.

Creation could have looked to understand the household expenditure by any means it saw fit. But in the absence of any other contradictory information, I consider these statements allow me to obtain a reasonable understanding of the household financial circumstances around this time.

On review of the statements and testimony provided I consider Creation made fair lending decisions at each of the three events.

I say this because as our investigator found, the statements generally support the information Mrs B declared to Creation at each application. The statements show a reasonable level of disposable income left at the end of each month, at a level that would have been enough to cover the repayments to these lines of credit and leave a reasonable amount for other living costs or unexpected costs that could occur.

So, I'm satisfied reasonable and proportionate checks would have led Creation to conclude each line of credit was sustainably affordable for Mrs B; and I'm therefore satisfied it would reasonably have reached the same decisions to lend.

As I consider Creation made fair lending decisions when providing Mrs B with these lines of credit I'm not requiring it to take any action in relation to this part of Mrs B's complaint.

Putting things right

As I've found above, I'm satisfied Creation Consumer Finance Ltd fairly defaulted loan one based on the status and management of the account. However, I consider it ought reasonably to have defaulted loan one as early as 4 July 2018, a month after it notified Mrs B it intended to default the account if the arrears weren't cleared, and the account wasn't brought up to date.

Creation Consumer Finance Ltd has already accepted this outcome and confirmed the update request has been sent to the credit reference agencies. So, it therefore follows I'm not recommending Creation Consumer Finance Ltd need to take any further action in resolution of this complaint.

My final decision

I'm upholding in part Mrs B's complaint about Creation Consumer Finance Ltd; but I'm not directing it to take any further action than it already has in resolution of the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 30 October 2023.

Richard Turner
Ombudsman