

The complaint

Mrs M complains that Creation Consumer Finance Ltd demanded an outstanding balance on her loan account after she believed it had been settled in 2019.

What happened

In December 2019, Mrs M requested an early settlement figure on her loan with Creation. Mrs M paid the amount to Creation, but the direct debit for the December payment was later returned and re-applied to Mrs M's loan account and Creation treated Mrs M's payment as a one-off credit and deducted it from the outstanding balance. This left a balance on the loan account that included the missed payment and the rebate of interest from the settlement figure.

In October 2022, Mrs M received a telephone call from Creation telling her that there was an outstanding balance on her loan account. After Mrs M complained, Creation explained it had credited the payment she made in December 2019 to the outstanding balance and when the balance had been used, it contacted her to explain she was now in arrears. Creation didn't uphold the complaint.

Mrs M brought the complaint to the Financial Ombudsman Service where one of our Investigators looked into things. After receiving evidence from Mrs M and Creation, the Investigator thought that Creation hadn't done anything significantly wrong. Mrs M asked that an Ombudsman decides the complaint.

I reached a significantly different outcome to the Investigator and decided to issue a provisional decision for the parties to consider and comment on before I made my final decision. I said that I intended asking Creation to recalculate the outstanding balance on Mrs M's loan to reflect that the arrears related only to the missed direct debit payment. I made it clear that this would mean Creation should reduce the balance on Mrs M's loan account to £321.59 with effect from the date the cancelled direct debit amount was debited to the loan account. As Creation treated the payment Mrs M made in December 2019 as lump sum or one-off payment, and didn't tell her for almost three years, I said I intended saying Creation should only charge interest on the £321.59 from 14 October 2022 to when Mrs M settled this amount.

Mrs M responded to my provisional decision and thought that I should consider asking Creation to amend the information it had reported to credit reference agencies as the account had been reported as being in arrears for many months. Mrs M provided copies of her credit reports and after considering these, I wrote to Mrs M and Creation again. I said that as I've seen no evidence that Creation told Mrs M that she had missed a payment until October 2022 I don't think the information on her credit report is fair and reasonable - and it has had a disproportionate impact on Mrs M credit records. I acknowledged that Creation had put the account on hold earlier this year, but I don't think the information Creation has provided to the credit reference agencies accurately reflects what happened in this case as - Mrs M only missed one payment and that was in December 2019. The information supplied suggests that Mrs M missed a number of payments and that the account has been in arrears since November 2022. I said I intended asking Creation to amend the information it sent to

the credit agencies to reflect that Mrs M hadn't missed payments after December 2019 and I asked for any further response by 3 August 2023.

Creation has since responded to say it accepted my provisional decision. Mrs M and Creation have provided no further comments for me to consider.

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.

There's no dispute that Mrs M requested an early settlement figure from Creation in December 2019, nor is there a dispute that Mrs M paid the figure Creation provided. It's also accepted that the direct debit due in December wasn't paid. So, it seems to me that the crux of this complaint is what happened after this that resulted in Mrs M having an outstanding balance on her loan account some three years later. I will now consider whether Creation acted fairly and reasonably during this period and did what was reasonable to keep Mrs M informed about her loan account.

Creation says it sent Mrs M a letter informing her that the December payment had been missed on 17 December. Whilst I haven't been provided with a copy of the actual letter, I have seen an entry on the loan account notes to show me the letter was sent to Mrs M. So, I think it's more likely than not this was the case. Mrs M may not have received it, but regardless of this, the final sentence contained in the template letter Creation provided states, *"This letter can be ignored if you have already paid your account off in full."* I don't think this letter would have concerned Mrs M if she had received it as she believed she'd paid off the balance of the loan in full.

Mrs M says she didn't hear from Creation again about her loan until October 2022. The account notes provided by Creation confirm that its next contact with Mrs M was in October 2022. Creation explains that Mrs M had access to her loan account on-line and should have been aware of the outstanding balance. Mrs M says that as she thought she'd cleared the loan, she had no reason to go on-line and check the balance.

The missed direct debit letter was unclear, and Creation relied on Mrs M to access her on-line account after she reasonably believed she'd paid off the outstanding balance. I think Creation should reasonably have done more to let Mrs M know the loan hadn't been cleared. I understand Creation's position that technically Mrs M's loan wasn't in arrears until the credit she'd paid in December 2019 had been used up, but Mrs M wouldn't have known what had happened unless Creation told her. I've decided that Creation's lack of direct communication with Mrs M for almost three years made this position much worse than it should have been.

Mrs M says that she paid the settlement figure Creation provided. Creation can't provide a recording of the call Mrs M made to obtain the figure but notes on Mrs M's account show the settlement figure was generated on 6 December and was valid until 3 January 2020. I think it's more likely than not this into account that Mrs M would pay the December direct debit. I think it's more likely than not Mrs M is responsible for the December direct debit being cancelled – particularly as there's no evidence Creation cancelled it. In this regard, I intend saying Mrs M should've paid this amount to Creation and that Creation is entitled to receive it to clear the loan.

Putting things right

It seems to me that it was Mrs M's intention to clear the loan in December 2019, but for the

reasons I've detailed above things didn't go as planned. So, I've decided Creation should recalculate the outstanding balance on Mrs M's loan to reflect that the arrears relate only to the missed direct debit payment of £321.59. To reflect this, Creation should reduce the balance on Mrs M's loan account to £321.59 with effect from the date the cancelled direct debit amount was debited back to the loan account.

Creation treated the payment Mrs M made in December 2019 as lump sum or one-off payment but didn't tell her it had done so for almost three years. So, in this regard, I've decided that Creation should only charge interest on the £321.59 from 14 October 2022, which is when it told Mrs M of the arrears, until the date of settlement.

The information Creation provided to the credit reference agencies doesn't fairly reflect what actually happened in this case. So, Creation should amend the information it sent to the credit agencies to reflect that Mrs M only missed the December 2019 payment, and that the account wasn't in arrears after the credit Creation applied to the account had been used up.

I've given a lot of thought about whether Creation should pay Mrs M some distress and inconvenience in this case, but I've taken into account that if Mrs M hadn't cancelled the direct debit the matter wouldn't have escalated as it did. So, in this regard, as my remedy has put Mrs M back into the position she would reasonably have been in but for the fact she cancelled the direct debit, I won't be asking Creation to pay Mrs M anything further.

My final decision

For the reasons I've detailed above I've upheld Mrs M's complaint and Creation Consumer Finance Ltd should:

- reduce the balance on Mrs M's loan account to £321.59 with effect from the date the cancelled direct debit amount was debited back to the loan account
- charge interest on the £321.59 from 14 October 2022 until the date of settlement
- amend the information it sent to the credit agencies to reflect that Mrs M has only missed the December 2019 payment, and that the account wasn't in arrears after the credit applied to the account had been used up

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 1 September 2023.

Paul Lawton
Ombudsman