

The complaint

Miss R complains that Lowell Portfolio I Ltd has declined to remove a default it's reporting on her credit file.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

Miss R had a catalogue account with a business I'll call S that was closed at default in June 2020. Later that month, Lowell acquired the debt with an outstanding balance of £195.95. Lowell took over responsibility for reporting the status of the account to the credit reference agencies from August 2020 onwards.

Agents acting on Lowell's behalf arranged a payment plan with Miss R of £9.79 a month which was maintained.

In April 2023 Lowell wrote to Miss R and explained the default notice issued by the original lender, S, didn't give sufficient time to bring payments up to date so wasn't compliant with the rules. As a result, Lowell issued a new default notice and said that if Miss R made a payment to clear the balance of £19.58 by 16 May 2023 the default would be removed from her credit file.

On 2 June 2023 Miss R's regular payment of £9.79 was taken, leaving an outstanding balance of £9.79.

Miss R has explained that she was confused by Lowell's letter and quickly raised a complaint online. Miss R says she asked Lowell to explain why the previous default notice was invalid and how the replacement it had just issued could be compliant. Miss R has explained that she wanted to check whether the new default notice was valid or not. But by the time Lowell responded on 13 June 2023, the deadline for making the payment had passed.

Lowell agreed to backdate the default to 3 June 2020 but didn't agree to remove it. Miss R's final payment was made on 2 June 2023, around two weeks after the deadline given in the new default notice.

Miss R referred her complaint to this service and it was passed to an investigator. They thought Lowell had dealt with Miss R's case fairly and didn't ask it to do anything else. Miss R asked to appeal and said her payments had been made on schedule when she raised the complaint and that only £19, or two payments, remained. Miss R added that she was making payments via an arrangement to another business (O) and didn't understand why Lowell was contacting her about the default.

As Miss R asked to complain, her case was passed to me. I recently contacted Lowell and explained that I felt the decision to continue recording the default was likely unfair given the

balance outstanding and confusion caused. I asked Lowell to consider removing it but received no response. As a result, I've taken the step of issuing a provisional decision.

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.

I'd like to begin by explaining that whilst the original default notice wasn't properly served, it was S (the original lender) that issued it. So whilst insufficient time may've been given to Miss R to clear the balance in the original default notice, that's not something I can hold Lowell responsible as it only purchased the account once it was already closed. In this case, I can only look at Lowell's actions after it purchased the account from S.

Lowell has explained that it appointed O to collect the debt on its behalf after it was unable to contact Miss R. That's why Miss R was subsequently contacted by O and a payment arrangement was agreed. Miss R has explained that she thought O had purchased the debt so was surprised when Lowell wrote to her about the default process S had carried out. I understand Miss R quickly contacted Lowell to complain. And I think it's fair to say Miss R found Lowell's letter to be unclear. I can understand that as a layman, Miss R may not have the background knowledge surrounding how default notices should be issued. So I can understand why Miss R contacted Lowell to raise queries and a complaint.

I think it's fair to add that Miss R only had £19.58 outstanding when Lowell wrote to her in April 2023 and made a payment of £9.79 on 2 May 2023 leaving only £9.79 outstanding at that time. So Miss R would've only had to pay £9.79 by 16 May 2023 and Lowell would've removed the default. That payment was taken around two weeks later, clearing the balance in full. But Miss R didn't receive a response to her complaint or queries until after that date had passed.

In my view, Miss R asked reasonable questions when she contacted Lowell and wanted to get a better understanding of what had happened with S' default process and why a new default notice had been issued. Taking the balance of Miss R's debt into account and the fact she quickly cleared it, I'm not persuaded Lowell dealt with her complaint fairly. In my view, there was confusion from Miss R that Lowell could've resolved in time for her to ensure the final payment was made before the deadline. So I think the fairest approach is for Lowell to remove the default from Miss R's credit file as it would've done if the payment had been received by 16 May 2023.

I know Miss R feels Lowell should also compensate her for having a default on her credit file since 2020. But Lowell wasn't the party that applied the original default and acquired the debt when it was already closed. It was only when S informed Lowell that it hadn't followed the right default process that it took steps to reissue the default notice. If Miss R wishes to complain about the circumstances and process followed when the original default was applied she has the option of contacting S directly.

I invited both parties to respond with any further information or comments they wanted me to consider before I made my final decision. Miss R confirmed she is willing to proceed in line with the settlement I reached. We didn't hear back from Lowell.

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.

As Miss R has confirmed she accepts and Lowell didn't send any new information, I see no

reason to change the conclusions I reached in the provisional decision. I still think Miss R's complaint should be upheld, for the same reasons.

My final decision

My decision is that I uphold Miss R's complaint and direct Lowell Portfolio I Ltd to settle by removing the default from her credit file, as it would've done if the balance had been cleared before 16 May 2023.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 16 November 2023.

Marco Manente
Ombudsman