

The complaint

Miss R complains Creation Financial Services Limited have continued to report defaults on two accounts when they shouldn't have.

What happened

I issued a provisional decision setting out what's happened, and what I thought about that. I've copied the relevant elements from my provisional decision below, and they form part of this final decision.

From the information Miss R has provided, she's said she entered into an Individual Voluntary Arrangement (IVA) in January 2017, and the agreement was satisfied in full in May 2018. Despite this, Creation have been reporting defaults on her two accounts – and Miss R says none should have been reported since January 2017.

On 10 February 2023 Creation said they'd found Miss R provided the IVA documents in May 2019, but her credit file wasn't updated as it should have been at the time. They said sorry for this, and said they'd arranged for updates to be made to her credit file – and this should take 28 days. Overall, they upheld her complaint, and awarded £150 in compensation to reflect this error.

Unhappy with this Miss R contacted our service explaining she was trying to get a mortgage, and this was causing her a lot of stress. She also told us she hadn't accepted Creation's offer.

One of our Investigators upheld the complaint and increased total compensation to £400 in total. Creation accepted this outcome and told us they'd sent off a request to update Miss R's credit file on 17 February 2023. They added this would take up to 28 days to show. If Creation had sent the amendment on 10 February 2023, then it should have updated by 10 March 2023 – if the amendment wasn't sent until 17 February, then it'd be 17 March 2023 before the 28 days had passed.

Following this, Miss R provided evidence Creation had marked her accounts as defaulted as of 28 February 2023. This would in theory mean the default would remain until 28 February 2029, when actually Creation had accepted at this point they should have already been removed. This happened again in March 2023, April 2023, May 2023 – and in July 2023 Miss R told us the reports were still incorrect.

On 24 April 2023 Creation let us know an error had been made when asking for the defaults to be removed – which meant the credit reference agencies (CRA's) couldn't find Miss R's accounts. They said at this time they'd manually removed them, so they shouldn't be showing anymore.

Miss R says she's lost out financially because of Creation's actions. Ultimately our Investigator awarded £650 compensation, but as Miss R didn't think that went far enough, the complaint's been passed to me to decide.

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.

Creation accepted in their final response they'd made an error in not removing the default. This was on 10 February 2023 – and they said it'd be removed within 28 days from then. From the timeline I've listed above, it's clear the issues weren't resolved by 10 March 2023 as I'd have expected them to be. As recently as July 2023 incorrect information was still showing with the CRA's for Miss R. Given Creation's assertions they'd resolve this, including their admittance of an error in April 2023 of providing incorrect information to the CRA's, I intend to hold Creation responsible for the issue from the beginning until the end.

This means I'm satisfied it's appropriate to consider how much money should be paid to Miss R for what happened. I'll split this process into two parts – financial losses, and compensation for what's happened.

Financial losses

These are losses Miss R says she wouldn't have incurred but for Creation's errors. Miss R has made a number of claims and at our request provided more detail about those financial losses along with evidence of those. I thank her for taking the time to provide that information I asked for.

I wanted to ask Miss R for this information because it was important for me to gain a better understanding of what happened and when. Creation have made many errors regarding the default, but I also need to think whether Miss R has fully mitigated any losses where she could have.

What I mean by that is we generally expect consumers such as Miss R to take reasonable actions in order to limit the amount of losses she's potentially going to incur. Here, I think she could have told her first lender there was a problem with her credit file because Creation kept adding a default when they shouldn't. This would have allowed them to take this information into account, and I can't rule out that they might have granted the mortgage she was applying for. I do understand why she didn't, as she didn't want to take the chance of losing the home she'd become emotionally invested in. But I have to assess things impartially.

As I think she could have told her first lender about the issues, I think this means the financial losses she's claiming for below won't be something I plan to refund:

- *The difference in mortgage payments*
- *Extra solicitor's costs*
- *Broker fees*

That's because if Miss R had told her first lender about the issues with the default, and that mortgage completed, she wouldn't have incurred these costs. And it seems likely to me the mortgage would have completed, given her first application was on a lower rate with correspondingly lower repayments than she was ultimately accepted for.

I understand Miss R may not agree with this and will likely point to information provided from her brokers about the first lender not accepting her application. But what I've not seen is the lender being shown she was in dispute with Creation about the default, that Creation had agreed to remove it, and that there were problems with this. I'd also need to see something from the lender confirming the only reason they didn't progress with her application was due to the default still being incorrectly applied.

I think the credit reports she paid for is something she likely would have felt the need to pay for – in order to get the most up to date information. It's clear to me Miss R was very concerned about Creation's ability to remove the default as time went on. So, I'm satisfied it's appropriate for those costs of £44.95 to be refunded. As Miss R has been deprived of this money, I'll also add 8% interest from the date of expense to the date of settlement. And I've noted Miss R said she was experiencing extreme stress which resulted in problems with her hair – but she included this to demonstrate the impact on her. With that in mind, I'll consider that in the next section.

Overall then, although I can understand why Miss R did what she did, and she genuinely has my sympathy, there were other options open to her which I think likely would have mitigated her losses. So, I'll only be awarding the credit file report costs for this part.

Compensation for what's happened

This is purely compensation to put matters right. It's not an exact science, but it's about understanding the impact this issue has had on Miss R and assessing a fair amount of compensation against our guidelines (which can be found online if required).

Although I think Miss R could have taken a different path, I do still think Creation's actions have had a significant impact on her. It's well known buying a property is one of the most stressful things people can do – so Creation's delay in removing the default has had a far more significant impact than it otherwise might.

From the information I have it was January 2023, and her purchase didn't go through until around June 2023. That's six months of worrying about a default being incorrectly reported about her, that she shouldn't have had to do.

In addition, I think this worry was compounded as time went on. Initially Creation accepted they'd made an error and said on 10 February the default takes up to 28 days to be removed. But they didn't submit the request until a week later. Even then, it should have been removed in March 2023 but despite multiple contacts, it wasn't until April 2023 where Creation realised they'd made an error in the data they'd sent to the CRA's. This error meant the entry wouldn't be removed. By this time I'm not surprised Miss R entirely lost faith in Creation actually removing the default.

I think regardless of whether she'd gone with her first lender, or the lender she ended up actually using, this would have been stressful for her until the day she completed on her property sale. I think given Creation knew what this was for, and they were at fault in the first place they should have taken far more care, than they clearly did, in ensuring the default was removed.

Our Investigator awarded £650, but I don't think that quite goes far enough. Instead, I'm planning to say £800 is a fairer reflection of all the issues Miss R has experienced. I have, when thinking about this, taken into account the impact Miss R has told us on her health.

Responses to my provisional decision

In summary Miss R says she did try and mitigate her losses explaining she told each broker what was going on with the default and said it wasn't worth appealing. She's provided information from her first lender's website in support of that. Miss R also clarified it was the product fee of £995 she asked to be refunded, not the broker fee.

Creation replied to say they agreed with my outcome.

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 thank Miss R for her comprehensive response and am sorry for referring to broker fees when they were product fees.

Miss R's key argument here is that she told her broker who she was speaking to about the issues with the default, and was guided in terms of what to do. But she's also previously told us she didn't want her first lender, or her second lender, knowing about the default because of the impact it could have had on her application. As I've explained in my provisional decision, I think most of Miss R's losses have stemmed from having to change from the first lender to the second lender – and the only reason Miss R has given us for doing that is because of the default.

I have noted the explanation she was given about mortgages being automatically declined in her circumstances, any appeal taking some time, and the approaching completion date. I do understand that this must have been incredibly stressful for her in terms of knowing what to do. But, fundamentally, I can only award losses if I'm satisfied Creation caused those losses and Miss R couldn't have reasonably done anything to avoid them. I understand her position is she couldn't because any appeal would have taken too long, but I simply can't be certain she couldn't have spoken to her first lender and got the mortgage agreed. Creation's final response letter is very clear in explaining they shouldn't have added a default, so I can't say her first lender wouldn't have taken that into account.

I understand Miss R will be very disappointed, but for the reasons I've explained above I remain satisfied the way I suggest things be put right is still fair and reasonable.

Putting things right

To summarise then, I require Creation to:

- Refund £14.99 taken on 18 February 2023
- Refund £14.99 taken on 18 March 2023
- Refund £14.99 taken on 18 April 2023
- Creation need to pay 8% simple interest* from the date of each payment, to the date of settlement
- Pay Miss R £800 compensation

*HM Revenue and Customs requires Creation to deduct tax from the interest payment referred to above. Creation must give Miss R a certificate showing how much tax they've deducted if she asks them for one.

My final decision

I uphold this complaint and require Creation Financial Services Limited to carry out the actions in the "Putting things right" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 25 December 2023.

Jon Pearce
Ombudsman