

The complaint

Miss N is unhappy with how RCI Financial Services Limited's (RCI) treated her when she was in financial difficulty.

What happened

In September 2016, Miss N was supplied with a new car through a hire purchase agreement with RCI. The agreement was for 48 months, with 48 monthly payments of £83.96, and a final monthly payment of £2,293.19 if she wanted to keep the car.

She said that when that agreement was reaching its end date, she chose to trade in the car, and take out a new agreement. When the application for the new credit agreement was declined, she entered into a new agreement in November 2021 to refinance the optional final payment due on the September 2016 agreement.

This was a modified agreement, and she was required to pay 36 monthly payments of £70.48.

In April 2023 Miss N complained to RCI. She was unhappy that they had issued a default notice when she had offered an arrangement to pay £20 a month towards the arrears.

She said her circumstances changed meaning she was no longer able to keep up the payments. She said she completed an income and expenditure form, but RCI refused to agree an affordable payment plan for her. She said they sent her a notice informing her that she had to pay the full amount of arrears or they would repossess the car.

She said she wasn't happy that RCI wouldn't agree an affordable payment plan that allowed her to keep the car. She said she needed the car and couldn't live without it.

RCI responded to her complaint in May 2023. They said they had offered Miss N sufficient time to clear the arrears before they issued a Default Notice. They said she had entered into the modified agreement in January 2022, and went into arrears in April 2022. They said they had been in contact with Miss N during 2022, and issued Notices of Sums in Arrears letters in May 2022 and November 2022.

In February 2023 they asked Miss N to complete an income and expenditure form. They reviewed this in March 2023 and found that her outgoings were more than her income, and concluded that the agreement was no longer affordable.

They sent Miss N details of how she could exit the agreement. Miss N responded by offering to pay £20 a month towards the arrears. RCI said they declined this offer as she had insufficient funds. This led to the issue of the default notice, and they informed Miss N that they would continue with the arrears process. They said this could result in the agreement being terminated if Miss N didn't settle the balance.

On 30 March 2023 RCI sent Miss N a default notice. This informed her that the amount of arrears was £845.76, and she had to repay this by 20 April 2023. The notice set out what

would happen if Miss N failed to clear the arrears.

On 25 July 2023 RCI sent Miss N another default notice. This informed her that the amount of arrears was £1,067, and she had to repay this by 15 August 2023. And again, the notice set out what would happen if she failed to clear the arrears.

On 24 August 2023 RCI wrote to Miss N to inform her that the agreement had now been terminated as she had not satisfied the default notice.

As she was unhappy with RCI's response, and because they had continued to refuse her offer, she complained to this service.

Our investigator felt that RCI had been fair and reasonable. He said that they notified Miss N of the arrears accumulating on her account, and assessed whether or not she could afford the agreement. He said it was reasonable for them to issue the default notice, and then terminate the agreement when the default notice wasn't satisfied.

Miss N disagreed. She said she'd been forced to complain because she'd received the default notice. She said she was in receipt of state benefits so couldn't pay the amount outstanding. She said she relied on the car as she had no local transport services.

Because she disagreed the complaint has been passed to me to make a final 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.

Miss N is unhappy that RCI has refused her offer to pay £20 every month towards the agreement, and that they have issued a default notice.

Financial Difficulty

The Financial Conduct Authority (FCA), the industry regulator, has rules that set out what lenders like RCI should do when a customer tells them they are in financial difficulty. These rules are set out in Section 7 of the "Consumer Credit Sourcebook (CONC).

CONC 7.3.4R says that "*a firm must treat customers in default or in arrears difficulties with forbearance and due consideration*". CONC 7.3.5G gives examples of the types of things a firm might do. This includes allowing deferment of the payment of arrears where immediate payment may increase the customer's repayments to an unsustainable level.

And CONC 7.3.6G says that firms should allow customer's like Miss N a reasonable time and opportunity to repay the debt.

I have to consider whether or not RCI treated Miss N with the forbearance and due consideration expected in the handbook

I'm satisfied that RCI treated Miss N fairly. They kept her account under review, and issued appropriate notices at the appropriate times.

When she started missing payments as early as April 2022, they issued a notice of sums in arrears in May 2022. This informed Miss N the amount of arrears, and invited her to contact them to discuss her financial difficulties. It also informed her of sources of debt advice she could use if she needed help.

I've seen the statement of account and it looks like she made no payments from May 2022 until April 2023 when she paid £20. Her offer to pay £20 didn't include the regular monthly payment, so the arrears would have continued to increase.

It was reasonable for RCI to ask Miss N to complete an income and expenditure form. They had concerns about Miss N's ability to pay. And the figure produced show that Miss N's expenditure was more than her income.

With no evidence or testimony from Miss N that this position was likely to change, it was reasonable to assume that Miss N wasn't able to meet the regular monthly payments, nor the arrears. This led to RCI issuing the default notices I've referred to above. I think it was fair and reasonable for them to do so.

The rules do allow RCI to defer the payment of arrears where immediate payment would increase the customer's payments to an unsustainable level. But they can only do that if it doesn't extend the term for the repayments excessively.

At the point they looked to terminate the agreement, Miss N was more than 12 months in arrears, and hadn't been able to maintain any form of regular payments for a substantial period of time. So I'm satisfied it was reasonable for RCI to conclude that Miss N wouldn't be able to clear the arrears within the remaining term.

Termination

I appreciate that Miss N wanted to keep her car – she sees it as a necessity. But RCI must ensure that any payment arrangement didn't put her in further financial difficulty. They also had to avoid the arrears increasing to an unmanageable level. So it was reasonable that they reached the point where they had to explain the options that would allow Miss N to exit the agreement early.

I'm satisfied that RCI treated Miss N fairly and in line with the expectations set by the FCA. I appreciate that she says she was on benefits and needed the car. But RCI gave her sufficient time to get her finances in order. When she still wasn't able to pay, they used the information provided by Miss N to conclude that she couldn't afford to pay for the car. They then issued the appropriate warnings and notices, before issuing a default notice and starting the steps to terminate the agreement when Miss N continue to fail to make the regular monthly payment.

As such, for the reasons stated, and while I appreciate this will come as a disappointment to Miss N, I'm satisfied that RCI have acted fairly, reasonably, and in line with the FCA guidance. And I won't be asking them to do anything more.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 24 April 2024.

Gordon Ramsay
Ombudsman