

The complaint

Mrs W complains Next Retail Limited (Next Retail) registered a default against her account and won't remove it even though she has explained she missed the payments due to difficult personal circumstances.

What happened

Mrs W opened an account with Next Retail in 2006. At the time of the missed payments, Mrs W's credit limit was £300. She missed minimum monthly repayments, and her account was defaulted in June 2023. She paid the outstanding balance shortly after and contacted Next Retail to explain the payments had been missed because she was looking after her terminally ill father who had sadly passed away. In the circumstances, she didn't feel it was fair for the default to be registered against the account and made a complaint.

Next Retail issued a final response to Mrs W's complaint on 15 December 2023. Next Retail said no payments were received for six months between 12 December 2022 and 29 June 2023. It said it sent multiple messages in the form of texts, letters and emails which explained the arrears and also offered support. It said due to non-payment a default notice was issued on 26 May 2023 requiring payment by 23 June 2023. The payment wasn't received so the account defaulted on 26 June 2023. It said it appreciated the difficult circumstances for Mrs W, but the information was factual and accurately recorded how the account was run.

Mrs W remained unhappy and asked our service to investigate. Our Investigator issued a view explaining why they felt Next Retail had acted reasonably in registering the default. Next Retail accepted the view.

However, Mrs W didn't agree with our Investigator's findings. In summary, she said:

- When she logged in to her account in June 2023, she received a message which said to pay what she could afford. Therefore, she doesn't understand why the account was defaulted because she made payments in June and July 2023 as per the message. She said it is extremely upsetting and disappointing.
- It was an awful time in her life, and it was not a priority for her because of the grief she was experiencing. She did not have a clear head and paid as she read on her screen. She paid the remainder quickly.
- She is very concerned because her family is single income, and she is worried about what will happen with her remortgage next year. She has a new job to try and better her situation, but the default has made things worse.

Therefore, the case has 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.

The Information Commissioner's Office (ICO) says when a consumer is at least three months behind with their payments then a default can be registered. It would expect a default to be registered before a consumer is six months behind with their payments. I would also expect to see Next Retail had dealt with Mrs W fairly when notifying her and proceeding to issue the default. It is with this in mind that I have considered Mrs W's complaint.

In respect of the arrears, I've seen the missed payments show on the monthly statements from early 2023 and were noted as requiring immediate payment. I've also seen Next Retail's system notes which confirms both emails and letters were sent to Mrs W to chase the arrears. I've seen a copy of letters and a template email for urgent payment requests. This correspondence was sent regularly between February 2023 and June 2023. Having reviewed this, I'm satisfied Next Retail reasonably tried to contact Mrs W about the arrears on her account and explained it required urgent payment to bring the account up to date.

Mrs W said she did make some payments and wasn't six months in arrears. She has provided information from the credit reference agency which shows there was no missed payment in January 2023. I have thought about this, and I've also considered the statement information. I can see Mrs W was due to pay £13 by 25 January 2023 and the subsequent correspondence confirmed this was not paid. So, it seems from the evidence I have that Mrs W missed this payment in January 2023. I'd also note it is not disputed that she missed payments in February, March, April and May 2023.

Mrs W has also confirmed she did receive correspondence in relation to the arrears, but she was sometimes away from her home because she was caring for her father. She said she wasn't in the right mindset to deal with the correspondence because of her very difficult personal circumstances. I want to assure Mrs W I have considered her circumstances at the time. I think it's important to note that I must consider whether Next Retail have acted fairly, and I'm satisfied it took reasonable steps to notify Mrs W of the arrears. I'm mindful Mrs W didn't contact Next Retail during this time to explain the circumstances she was experiencing so I can't reasonably expect it to have known. The correspondence did provide information about who she could contact for support.

As mentioned, the ICO's guidance sets out that firms should register a default when a consumer is between three and six months behind with their payments. Next Retail issued a default notice on 26 May 2023. So, I'm satisfied Next Retail acted within the relevant timeframe. It would have still acted within the relevant timeframe if Mrs W made the payment in January 2023. I can also see the notice was correctly addressed and it shows on Next Retail's system as having been sent. There was no reason for Next Retail to expect that this might not be received.

The notice confirmed Mrs W had not paid £63.50 and this needed to be paid by 23 June 2023. If it was not, then a default would be filed with credit reference agencies. I note the arrears letters also explained the account could default. Overall, I'm satisfied Next Retail provided clear notice the account would be defaulted if the arrears were not paid by the date stated.

Mrs W said she accessed her account online and saw a message on the system which told her to pay what she could afford. She said the message did not mention the default (or potential default) and I can understand why Mrs W would have found this helpful. I also appreciate Mrs W went on to clear the arrears shortly after the default was registered. She paid £50 on 30 June 2023 and £50 on 25 July 2023. She cleared the balance by paying £164.14 on 2 August 2023.

However, I'm satisfied the correspondence from February 2023 about the sum in arrears was sufficiently clear that immediate action was required to bring the arrears up to date. And the default notice was clear that the arrears needed to be paid by 23 June 2023. Mrs W did not bring the arrears up to date by then and so it was reasonable for Next Retail to register the default.

Mrs W is concerned Next Retail won't remove the default even after she has explained why she missed the payments. However, I don't think this is unreasonable. I understand this was a difficult time for Mrs W, but Next Retail reasonably contacted her about the arrears which were building up over some months and Mrs W did not contact Next Retail during this time.

I appreciate my decision will be considerably disappointing for Mrs W who has explained she is very concerned about the impact the default will have on applications for future credit. I also appreciate the difficult circumstances in which she has made her complaint. However, I must consider if Next Retail have acted reasonably in registering the default.

Overall, I've seen evidence which satisfies me Next Retail provided clear correspondence setting out the arrears including the default notice. The steps Mrs W needed to take were fairly explained and Mrs W didn't contact Next Retail to discuss her circumstances. As it didn't receive the payment requested by the date stated on the default notice, I don't think Next Retail did anything wrong in registering the default and I won't be asking it to do anything further to resolve the complaint.

My final decision

For the reasons outlined above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 16 December 2024.

Laura Dean
Ombudsman