

The complaint

Mr C complains that Tymit Ltd has acted unfairly in respect of his credit card account when he suffered financial difficulties.

What happened

Mr C holds a credit card account with Tymit. Unfortunately, he experienced financial difficulties and missed a payment in August 2023. Mr C says he sent a number of emails to Tymit explaining he wasn't able to pay the contractual amount and seeking a repayment plan.

Tymit attempted to make a number of calls to Mr C to discuss the missing payment. Mr C says that due to a health condition he isn't able to deal with cold calls and these caused him great anxiety. Mr C sent further emails asking calls weren't made to him and requested he been dealt with by email.

Tymit responded to Mr C via email and apologised for any delay. A payment plan was set-up. However, Mr C asked that his mobile phone number be removed from his account. Tymit declined to do so and said that it was part of the account's terms and conditions that it held a mobile phone number for him.

Mr C then received a notice of sums of arrears setting out that his credit card account was two months in arrears. Mr C was upset by this as he said he hadn't missed any payments. He complained to Tymit.

Tymit didn't uphold Mr C's complaint. It said that it was required to store his mobile phone number and was unable to remove it as his account was still active. It said the mobile number had been provided as part of the account opening process and was required to create the credit card and was also necessary to allow Mr C to access the App.

Tymit said that in respect of the notice of arrears, this was in accordance with the Consumer Credit Act as Mr C was two months in arrears. It said the Act required it to contact Mr C and make him aware of the missing payments and their impact. As Mr C had been paying less than the contractual minimum monthly payment, Tymit said it had correctly sent him this notice.

Mr C disagreed with Tymit's response. He said he had the legal right to request Tymit delete his mobile phone number. Mr C also said that as he had been making regular payments as per the payment plan and didn't agree he was two months in arrears. He said the notice of arrears hadn't been clear if it was referring to the payment plan amounts or the contractual monthly payments.

Our investigator didn't recommend that Mr C's complaint should be upheld as he said he didn't think Tymit had acted unfairly. He said that under the card's terms and conditions it set out that a mobile phone number must be supplied to set up the card and to use the App. However, he also said that Mr C should make a complaint to the Information Commissioner's Office if he believed there had been a breach of data protection law in respect of Tymit's

refusal to delete his mobile number from the account's records.

Our investigator said that although he understood cold calls to Mr C's mobile would have been distressing for him, he couldn't see that Tymit was aware of his difficulties. He said that as the account had fallen behind, Tymit would be expected to offer support to Mr C and would need information from him to do so. Although Mr C had sent emails asking that his financial difficulties were dealt with by that method and Tymit had made calls instead, our investigator said he'd seen that Tymit had replied by email to Mr C within a few days.

Our investigator said that he was satisfied that Mr C's account had been in arrears as the payment plan monthly amounts were less than those contractually due. He said that Tymit was obliged to contact Mr C and send him a notice of arrears in the circumstances.

Mr C disagreed with our investigator's view. He says that Tymit ignored his emails in order to try and force him to make contact via the telephone. He said he had sent a number of emails and Tymit had taken time to eventually respond to him via the same method and not via the phone.

As the parties have been unable to reach an agreement the complaint has been passed to me.

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'm sorry Mr C has been upset and distressed by the events but, although I appreciate this will be of disappointment to him, I'm not upholding his complaint and I will explain why below.

I've seen the terms and conditions of opening a credit card account with Tymit and I am satisfied that the process entails the use of the customer's mobile phone number and so this data is required. As the account is still active then I don't think it's unreasonable for Tymit to retain that information. It's linked to the App and would also be used by the business to protect the account as it allows it to make prompt and safe contact. So, I don't think it acted unfairly by declining to delete this information from his account. However, Mr C has the right to make a complaint to the Information Commissioner's Office if he believes that Tymit has breached data protection law.

I can see that Tymit used Mr C's mobile number in an attempt to contact him when his account went into arrears. I also don't think that would be an unreasonable use of the data as I can't see Mr C had informed Tymit that, due to a health condition, it shouldn't cold call him. And when a credit account goes into arrears then I would expect the credit company to make contact with their customer, using the contact details they have available for them.

I appreciate that Mr C contacted Tymit by email and asked it not to call but deal with him via email instead and that he sent several emails making this request. However, I have also seen that Tymit's first call to Mr C appears to have been around the end of the first week of August and it had responded to him via his chosen method after a few days, certainly by mid-August so I can't reasonably say it ignored him nor do I think it was deliberately forcing him to make contact with it via the phone. Tymit did explain that due to the number of emails it receives, responses may not necessarily be quick using this method. I can appreciate Mr C's distress at the cold calls Tymit had made at the start, but I think it did rectify the situation within a reasonable period of time by dealing with his financial issues via email. I don't think Tymit acted unfairly towards Mr C in respect of the phone calls.

Mr C and Tymit agreed a payment plan for the account and Mr C has kept to that plan. I've seen that Mr C was unhappy when Tymit later sent him a notice of sums in arrears as he had made the payments expected under the plan. But as these monthly payments are lower than the contractual amount that was due then his account is in arrears. And when a credit account is in arrears then the business is under an obligation to send certain notices to the consumer. A notice of sums in arrears is such a notice and Tymit will need to send these notices to Mr C at certain intervals. Again, I can appreciate that Mr C was concerned about receiving this because he'd been making payments, but the information it contained wasn't inaccurate. Payment plans are also reviewed from time to time. I can't say Tymit had acted unreasonably in sending this notice to him.

So, for the reasons set out above I'm not upholding Mr C's complaint.

My final decision

As set out above, and although I'm sorry to disappoint Mr C, I'm not upholding his complaint as I don't think Tymit has acted unfairly towards him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 6 May 2024.

Jocelyn Griffith
Ombudsman