

The complaint

Mr M is unhappy that Creation Consumer Finance Limited applied fees to a running credit account he had with them, and that they allowed him to place orders for additional items, despite him asking them not to do this.

What happened

On 10 August 2022 Mr M successfully applied for a running credit account with Creation. This was applied for through a retailer I'll refer to as 'C'. This account allowed Mr M to make purchases through C on flexible terms, repaying each purchase over a separate fixed term. Mr M was given a £2,500 credit limit, which he used to make the following purchases:

- 10 August 2022 - £2,099
- 9 November 2022 - £324.97
- 27 November 2022 - £299
- 14 April 2023 - £163.99

The agreement Mr M signed was clear in that *"a default fee of £30 [is charged] each time a payment is missed and/or failed or a Direct Debit request is cancelled or returned."* Mr M failed to make the payment for April 2023 and Creation charged him a £30 fee for this, in line with the terms that had been agreed to. Mr M subsequently missed further payments in May and June 2023.

Mr M complained to Creation in May 2023, but they didn't uphold his complaint. So, he brought the matter to the Financial Ombudsman Service for investigation.

Our investigator said the missed payment fee was applied in line with the agreement Mr M signed, so they didn't think Creation had done anything wrong by applying this. The investigator also said the agreement Mr M had with Creation allowed him to purchase multiple items up to the credit limit – which hadn't been increased since the account was opened – so, Mr M used the account as it was designed to be used.

Mr M had said that he'd told Creation not to allow him to place additional orders, but the investigator thought Mr M would've been aware he was making these purchases, and if he wasn't happy he was allowed to do this, the investigator would've expected Mr M to have complained to Creation sooner.

Mr M had also said that he made Creation aware of his health issues. However, the investigator said this was in August 2023, after they'd responded to his complaint. And, once they were aware of the situation, Creation took steps to try and assist. So, the investigator said that Creation had acted reasonably, and didn't need to do anything more.

Mr M didn't agree with the investigator's opinion. He said that he'd asked that no further orders were allowed to be placed, and that Creation hadn't been in contact with him about a payment plan. So, he asked for an ombudsman 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr M entered into a regulated consumer credit agreement with Creation which means we're able to investigate complaints about it.

I've seen a copy of the agreement Mr M signed in August 2022, and I'm satisfied this gives Creation the right to charge £30 for a missed payment. This clause is clearly stated, and is not in such a small print, or so contained within a list of terms, that it's not easily seen and read. As such, I'm satisfied that Creation acted reasonably by applying this charge.

As well as reviewing the terms of the agreement, I've also reviewed all the case notes relating to Mr M's account. While I've noted his comments that he asked Creation to limit his account to a single purchase, I've not seen anything to show me he made this request. What's more, not only would Mr M have had to contact or visit C directly to make any subsequent purchases, so this is something he'd need to actively do; if Mr M didn't want to be able to make further purchases, I would've expected him to have complained about this in November 2022, when both the second and third purchases went through.

Given this, while Mr M may now have buyers regret, I'm not satisfied he asked Creation to limit his account to a single purchase.

Turning to the situation Mr M now finds himself in. I can see that he's explained to Creation about his medical issues and that he no longer has any income. The case notes I've seen show that Creation asked Mr M to provide copies of his bank statements to show any income and expenditure, so they could arrange some form of payment plan. However, and while I accept that this may no longer be the case, from what I've seen Mr M hasn't provided this information. I wouldn't expect Creation to put any payment plan in place without an understanding of whether it was affordable for Mr M, so I don't think Creation have done anything wrong by not putting anything in place at this stage.

Therefore, I won't be asking Creation to do anything more. However, I would expect them to treat Mr M with forbearance and due consideration when considering his arrears and any payment arrangements they may look to put in place.

My final decision

For the reasons explained above I don't uphold Mr M's complaint about Creation Consumer Finance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 May 2024.

Andrew Burford

Ombudsman