

The complaint

Mrs B complains about John Lewis Financial Services Limited's actions when she asked for a payment plan to repay her credit card.

Miss B – Mrs B's daughter – has supported Mrs B in bringing this complaint, so I'll also refer to her in this decision.

What happened

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

Mrs B has told us the problems for her started in November 2022 when she was given an incorrect payment plan for her old Partnership Card – which had been closed for new purchases in October 2022. Mrs B says she found with her rising energy bills, cost of living crisis, health card and the new credit card she couldn't manage the cost of repaying this credit card. That's because the monthly payment was around £200 a month. Mrs B says although John Lewis took off interest and charges, this wasn't supposed to show on her credit file as missed payments.

Following this Mrs B was then asked to complete an income and expenditure form – which she wasn't able to do on the phone. This form was posted out, and she says she returned it, but when following up with John Lewis didn't hear anything – so sent it again this time by recorded delivery. Mrs B says she still didn't hear anything – this all happened in February / March 2023. By June 2023, Mrs B's financial situation had changed, she now couldn't afford anything towards the debt, so John Lewis asked for another income and expenditure form. At this point Mrs B asked John Lewis to write off the debt due to the balance, her health, her age and affordability concerns. John Lewis said they wouldn't do that – and all this time Mrs B's credit file was being impacted. This was important to Mrs B, because she's an elderly person who was needing to rent a new property soon – and she understood landlords might be concerned about negative information on her credit file.

At this point I'd like to thank Mrs B for sharing her medical information with us. Given the sensitive nature of this information I won't be reflecting it in this decision as it's published on our website – but I wanted her to know I'd seen it and taken account of it. I'm aware she's also provided this information to John Lewis.

I can see there were discussions ongoing for some time about what actions John Lewis could or would take. And on 21 June 2023, John Lewis confirmed their final position regarding the request to write-off the balance. They said they appreciated Mrs B had no affordability to make payments based on her income and expenditure – and they'd noted her health. They said they can offer to mark the debt as unrecoverable and not pursue the debt at this point. John Lewis added they won't be able to offer to clear the debt fully or partly and report to the Credit Reference Agencies (CRAs) that the debt has been settled under these circumstances. They said as the account has been in breach of the agreement since November 2022, a default notice may still be issued. Across their responses, John Lewis did offer Mrs B a total of £150 compensation. This was £100 for incorrect information in a call on 8 November 2022 which has since been paid – and £50 for an incorrect date being included in a letter. This hasn't been paid, and John Lewis have told our service it's still available.

Overall unhappy with John Lewis' attempts to resolve the complaint, Mrs B asked us to look into things.

One of our Investigators did so and he found John Lewis had made a number of errors in setting up the payment plans. But he also thought Mrs B hadn't made payments when she was due to. Bringing this together, he felt John Lewis should mark Mrs B's account with an arrangement to pay marker in November 2022 and February 2023 – and pay a total of £450 compensation. Our Investigator didn't think the account should be written off.

John Lewis said they were prepared to accept the outcome, but Mrs B wasn't. She said she'd have kept to the plan if it'd been put in place so didn't think it unfair anything negative got recorded with the CRAs – and she still thought the account should be written off. After our Investigator considered things, I understand John Lewis defaulted Mrs B's account.

As an agreement couldn't be reached, the complaint's been passed to me to decide.

Miss B has asked that, before I decide the outcome of this case, she be allowed to provide more medical evidence of Mrs B's situation. For reasons that'll become clear, I don't think this medical evidence is necessary, which is why I've gone ahead and considered the outcome of the case.

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.

I think it's important to firstly explain I've read and taken into account all of the information provided by both parties, in reaching my decision. I say this as I'm aware I've summarised Mrs B's complaint in considerably less detail than she has. If I've not reflected something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a fair and reasonable outcome is. This also means I don't think it's necessary to get an answer, or provide my own answer, to every question raised unless I think it's relevant to the crux of the complaint.

The crux of Mrs B's complaint is whether John Lewis have treated her fairly in the way they've marked her credit file – and that they've chosen not to write off her debt.

Focusing first on whether John Lewis should write off the debt – generally this could be appropriate in a number of circumstances.

I think Mrs B's medical history and age meets those circumstances. As I've said above, I won't go into detail, but Mrs B is unlikely to work again. That's important because it means, largely, her financial situation is unlikely to change for the better.

So, I need to consider the last income and expenditure Mrs B provided to John Lewis, to see if it'd be reasonable of them to expect her to repay the debt or not.

The last income and expenditure completed showed Mrs B had nothing available to spend towards the outstanding balance. As of 14 March 2023, the outstanding balance was £6,683.

I think John Lewis have accepted Mrs B's health, age and financial circumstances as meaning she can't pay anything towards the debt – otherwise I can't see why they'd have marked her account as unrecoverable.

In the circumstances, I'm satisfied it'd be appropriate for John Lewis to write off this debt – and I think they probably should have done this by the time of their last response on 21 June 2023.

But, 'how' this is done is something I can see Mrs B is unlikely to be happy with.

Mrs B has maintained that if the arrangement to pay had been put in place back in February 2023, then the account wouldn't have been defaulted.

But I don't agree with that.

When Mrs B took out her credit card, she agreed to pay the minimum payment as due every month. When she stopped making that minimum payment, she immediately entered into arrears.

The Information Commissioner's Office sets out guidance for when businesses like John Lewis should record a default – and they say it shouldn't be recorded until the account is in at least three months' worth of arrears, and not more than six months' worth of arrears.

From all the information I have, no payment arrangement was ever set up. I agree John Lewis are partly to blame for this, on the basis Mrs B sent in her income and expenditure forms back but didn't hear anything for some time.

But, she still had to make the minimum payments in order to avoid going into arrears – and she wasn't able to afford that at the time. Later on, after increases in her bills, she then couldn't afford anything – as noted in the April 2023 conversations onwards.

In those circumstances, although I take Miss B's point she'd have done anything she could – John Lewis would have still looked to default the account once it was in between three and six months' worth of arrears.

And, while I understand Mrs B's concerns about how can it be commercially justified to record a default, John Lewis are simply recording accurate information. I don't agree that had John Lewis handled things better, Mrs B would have continued payments – as the evidence I have shows she couldn't have afforded to do so.

Now, to date, I've found John Lewis should write off the debt, and should record a default. I also think John Lewis will need to backdate the default to an earlier date – and mark it as partially settled or some equivalent of this. I'll explain.

Mrs B's last contractual monthly payment, as far as I can tell, was made in November 2022. No payment was made in December 2022 – so I think Mrs B's arrears started here, in December 2022.

After this, Mrs B made payments as follows:

- 12 January 2023 - £64
- 10 February 2023 - £90
- 17 March 2023 - £25
- 29 July 2023 - £40

If either party wishes to correct me, they can, but I don't think the payments made in January, February or March 2023 would have been enough to clear the arrears up to this point.

So, with the account first entering arrears in December 2022, the earliest the account could have been defaulted would have been March 2023 – three months later.

This seems a reasonable time for John Lewis to have recorded the default. So, I think John Lewis need to backdate the default to this date. And I think they need to mark it as partially settled or some equivalent of that – as Mrs B will have made at least one payment (the July 2023 one of £40) towards the defaulted balance.

I've seen in this situation Mrs B wanted John Lewis to record with the CRAs 'why' the debt would have been written off – but this isn't something they have the facility to do. As Mrs B has noted, she'd be able to record a Notice of Correction which explains why the default was applied and has since been written off. She'd need to contact the CRAs herself to discuss this individually. I don't believe a monthly subscription would be required, but, again, she'd need to discuss that with the CRAs.

Customer service

I do think at times John Lewis could have handled things better – for example by emailing / writing to Mrs B upon receipt of her first income and expenditure form in February 2023. And by writing off the debt in June 2023 amongst others. It's clear Mrs B's frustration with John Lewis' communication has had an impact on her, and I'm genuinely sorry to see how worried she's been.

I can't say how lenders or prospective landlords will view the partially settled default on her account – but I hope it's reassuring for her that it's generally better to have a default that's been partially settled, than one that hasn't been settled at all.

Overall, although I do think at times John Lewis have tried to help Mrs B, they've fallen short. And that's had a significant impact on Mrs B given her circumstances. Because of that, I agree a total compensation payment of £450 is fair – John Lewis can remove any compensation already paid.

Responses to my provisional decision

In summary, Miss B said:

- They were very relieved I'd said the debt should be written off – and would like John Lewis to write to Mrs B to confirm this
- It's disappointing the default has to be applied, but they can see why so accept this – they ask if they could be provided the contact details for each of the agencies John Lewis reports to
- They wanted to make sure John Lewis record the 'partially settled' element of things properly
- The compensation of £450 in total was fair – and understood Mrs B would receive a further £350
- The only remaining issue was Miss B felt John Lewis should formally apologise to Mrs B for what happened – Miss B said although it may feel a small issue, the stress and misery caused makes it feel merited

John Lewis replied, and said they had nothing they wanted to add.

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.

In the circumstances, neither party has disagreed with the outcome I've reached, so I won't change it fundamentally, but I'll address Miss B's comments which will change the redress slightly.

As different lenders don't always report to all three main CRAs, I think it'd be helpful for John Lewis to confirm who they will be reporting the debt to. In doing so, it'd also be helpful for John Lewis to confirm the contact details for the CRA, though I appreciate it may be simpler for Miss B to just search for them on the internet once she knows who she needs to speak to.

In respect of the 'partially settled' element of things, one reason I've said 'or some version of that' is because the different CRAs might show information differently. Given Miss B's intention to contact each CRA anyway, I might suggest once John Lewis have told her they've made the updates, she contacts them and asks the CRAs to confirm how things are reporting on Mrs B's credit report. Miss B and Mrs B should be aware updates can take up to eight weeks once actioned.

Finally, I do understand why Miss B feels an apology is due to Mrs B. I won't though order this in my decision. I say that because ordering an apology does, in my view, remove any sincerity that apology could have. Instead, I'd encourage John Lewis to consider whether to say sorry when writing to Mrs B about the actions they've taken.

Putting things right

In summary then, John Lewis need to:

- Write off Mrs B's debt
- Record the account with the CRAs as partially settled or some version of that
- Pay Mrs B a total of £450 compensation – John Lewis can remove any compensation already paid from this figure
- Write to Mrs B to confirm the debt has been written off, that it's been recorded as partially settled (or equivalent) with the CRAs, who those CRAs are and, where appropriate, the contact details for those CRAs. John Lewis may also wish to apologise for what's happened.

My final decision

I uphold this case and require John Lewis Financial Services Limited to carry out the actions in the 'Putting things right' section of this decision.

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

Jon Pearce
Ombudsman