

The complaint

Mr C complains East Sussex Credit Union Limited trading as Wave Community Bank (WCB) should have defaulted his account when he fell into financial difficulties. He says their failure to do so resulted in him having to accept a more expensive mortgage deal when remortgaging his property.

What happened

The details of this complaint are well-known to both parties, so I won't repeat them again here. The facts aren't in dispute, so I'll focus on giving the reasons for my 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 considered everything, I'm satisfied WCB's offer to put things right is fair in the circumstances. I'll explain my reasoning below.

Mr C is unhappy that WCB reported his loan account as being in arrears, and this information on his credit file, prevented him from getting a preferable mortgage rate. He's said that had WCB defaulted his account, he would have received the mortgage rate he wanted. So, I've had to consider if WCB administered Mr C's account as I'd expect.

It's not disputed that Mr C stopped making payments towards his loan account in 2018. And I've seen evidence that shows WCB attempted to contact Mr C about this on numerous occasions from that date. I've also seen they attempted to get a County Court Judgment (CCJ) for the amount owed, but this was unsuccessful.

It wasn't until November 2020 that WCB were able to speak to Mr C about his account. In this call, he explained he wasn't able to make payments towards his loan. Mr C also told WCB he was due to speak with a debt charity the following week and would call WCB to update them as soon as possible. Because of this, WCB explained they'd put his account on hold for 30 days. This was a reasonable response in the circumstances as I would expect a lender to allow a customer the time to determine how they're able to manage their debts.

I can't see that Mr C got in touch with WCB like he said he would. So, WCB tried calling and emailing him in late February and early March 2021. They were able to speak with Mr C in mid-March 2021 when they called him, and he told them he'd be entering into a debt management plan. So, WCB put Mr C's account on hold for breathing space while they waited to hear from the debt charity about the DMP. Again, this is what I would have expected WCB to do in the circumstances.

After not hearing from Mr C or the debt charity, WCB tried calling and emailing Mr C about his account in June and July 2021. And he responded to them, by email in late August 2021 and said he was near finalising an IVA. Mr C explained he was likely to be able to pay WCB £38 per month over the next five years, meaning he'd repay a total of £2,280. WCB

responded around a month later, and explained they'd be willing to accept a repayment of £2,280 as a final settlement figure to be paid monthly for five years at £38 per month. However, that would be contingent on the following:

- His account would be put into an arrangement for the amount Mr C suggested per month.
- WCB would freeze interest while Mr C made payments in line with the arrangement.
- The remaining balance would be written off if all payments were made on time and in full.
- If payments were missed or Mr C fell behind, they could withdraw the arrangement and seek to recover the full debt.
- WCB were required to accurately reflect the debt to credit referencing agencies (CRAs), which is why the part of the balance couldn't be written off before the settlement was paid.

Once Mr C had heard back from other parties, he wrote to WCB at the end of December 2021 and said he wanted to proceed with the £38 per month arrangement and would try to repay the £2,280 settlement figure as soon as possible with the help from family. He also asked how his account would be reported to CRAs before and after the arrangement and provided his account details to set up a direct debit. So, at this point it seemed Mr C was in a position to start marking repayments towards his loan and was keen to understand how it would impact his credit file.

WCB responded a week later and explained they'd put Mr C on a temporary arrangement for the amount owed. But if he was able to keep up the repayments for six months, they might be able to reschedule the loan which would wipe out the arrears. This would show as a new loan and improve Mr C's credit file. Alternatively, they could reschedule Mr C's loan immediately with repayments of £109 per month. WCB also explained that they were happy to accept the £2,280 settlement figure when Mr C was ready to pay it, but as it is substantially lower than the amount he owed, this would only reduce his loan balance and leave a default on his credit file.

In February, May, and July 2022, a number of emails were exchanged between Mr C and WCB about whether a default would be reported to CRAs and explaining a direct mandate would need to be completed and returned to WCB. I do think WCB answered Mr C's questions as I'd expect and clearly explained he would need to complete the direct debit mandate they'd sent him. So, I'm satisfied Mr C had the information he needed to start the agreed repayment plan if he could afford to do so. I also consider WCB would have been under the impression that Mr C was trying to avoid a default if possible. And given they hadn't received anything to suggest he couldn't afford the agreed £38 per month; I don't think they treated him unfairly by waiting for his direct debit mandate during this period of time.

After not hearing back from Mr C, WCB reached out to him again in March 2023, explaining his account was in arrears. Mr C responded to explain a direct debit should be in place because he'd provided his account details, and WCB explained again they needed a completed direct debit mandate and offered to send a copy by post. WCB received the completed mandate and payment date information they needed at the end of March 2023, and the first payment was due to be taken at the start of May 2023.

Despite the communication between Mr C and WCB, Mr C was under the impression his credit file would show his account was up to date. But having reviewed what was discussed, I can't agree that WCB ever told him or implied that would happen. In fact, when an arrangement was first discussed with Mr C, WCB clearly stated they would need to report accurate information. So, I can't fairly hold WCB responsible for this misunderstanding. Also,

I wouldn't expect a business like WCB to report that there were no arrears when payments hadn't been made towards Mr C's loan account for more than four years.

From what I've seen, I'm satisfied Mr C was given the information he needed to decide if it was in his best interests to enter into an arrangement with WCB. And he had this information at a time he indicated to WCB that he was in communication with a debt charity and IVA practitioner. And both are parties he could have discussed the pros and cons of an arrangement to pay. So, if Mr C's decision to proceed with an arrangement, when he did, impacted the mortgage rates available to him, I don't think it would be fair to hold WCB solely responsible for this.

WCB has explained they would only default an account when a CCJ has been obtained, an insolvency order put in place, or when a full write off takes place. As none of those things happened, I'm not of the opinion WCB treated Mr C unfairly by not defaulting his account. I also can't ignore the fact they did initially take steps to obtain a CCJ, albeit this was rejected in September 2020. And in November 2020, when speaking to Mr C they mentioned they were looking into pursuing a CCJ again, but this was when Mr C first mentioned working with a debt charity – and this started the chain of events in working with Mr C and in line with the advice he was getting from said charity.

Putting things right

WCB has acknowledged their level of customer service fell short on occasions (in particular, with the time it took them to respond to Mr C's complaint and subject access request), and offered to do the following to resolve Mr C's complaint:

- Remove litigation fees and any remaining interest accrued/unpaid on Mr C's account since 2018.
- Reduce Mr C's balance by a further £100.
- The balance shown on Mr C's credit report for their mid-March 2024 update would be updated with an "A" (arrangement flag) and an arrears status of "6". But due to WCB's merger, by mid-April 2024 they will stop reporting Mr C's account to CRAs, and the record that has been reported by them will be deleted entirely.

Given my reasoning above, I'm not persuaded that WCB treated Mr C unfairly by not defaulting his account. In addition to this, I've not seen sufficient evidence to persuade me that had WCB defaulted Mr C's account it would have ensured he got the mortgage deal he wanted. That's because a default can impact the mortgage deals available to a consumer. And the evidence Mr C has provided doesn't clearly explain that a default would have ensured he got the deal he wanted. It simply explains late payments were preventing him from getting the deal he wanted – and they are two very different things. Most importantly, the reporting of late payments is an accurate reflection of how his loan account was being managed.

When I take everything into consideration, I'm satisfied WCB's offer is a fair and reasonable resolution to Mr C's complaint.

My final decision

My final decision is that I'm upholding Mr C's complaint about East Sussex Credit Union Limited trading as Wave Community Bank.

To put things right (if they've not already done so already), East Sussex Credit Union Limited trading as Wave Community Bank should carry out the settlement detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 April 2025.

Sarrah Turay
Ombudsman