

## The complaint

Mr T complains that Creation Consumer Finance Limited ('Creation') failed to locate a payment he made to settle his loan account. He says this has caused him financial loss as well as significant distress and inconvenience. Unless otherwise indicated, or stated, the currency I will refer to throughout this decision will be in Euros ('€').

## What happened

On 27 December 2020, Mr T, who is self-employed, entered into a fixed loan agreement (the 'agreement') with Creation for the sum of €5,631.27 to finance goods from a retailer. The agreement duration was for 36 months with monthly instalments set at €211.79. The total amount repayable, with interest, was €8,260.14. As an alternative, the agreement came with a 'Cash Price Option' under which no interest was payable as long as the loan was repaid in full on, or before, the 'Special Offer Date' of 27 June 2022, which was eighteen months from the start of the agreement.

On 29 June 2021, Mr T checked how much remained outstanding via his online loan account. He says this showed the remaining balance as €4,360.53, which Mr T decided to pay. As this was within the special offer period, no interest would be payable. Before making the payment Mr T contacted Creation, by phone, to check that the IBAN (International Bank Account Number) and other payment details were correct. But the Creation agent he spoke with gave him an incorrect IBAN reference. So when Mr T tried to make a payment via an electronic money transfer business ('EMT'), this payment was rejected.

Mr T re-checked the payment details with Creation on the same day. And on this occasion, he was provided with the correct details. The payment was resubmitted by Mr T via the EMT and it was shown on the relevant payment system as being successfully paid. But when Mr T checked with Creation it said the payment had not been received. Mr T sent payment evidence to Creation on 9 July 2021 but it maintained the funds had not been received.

In early 2022, Mr T complained. His complaint at this point was that Creation had given him incorrect payment details and he thought this was the reason the funds could not be traced. In response to this complaint Creation admitted it had provided Mr T with the incorrect IBAN details during the initial call, which it said was rectified in the subsequent call. It added that it had searched for the funds but these could not be located. Creation advised Mr T to make enquiries with his bank and the relevant EMT. Creation applied €100 reduction to his existing loan balance by way of compensation for the mistake it made in relation to the IBAN reference.

Mr T escalated his complaint to our service. Based on the evidence available at that time, our investigator thought the compensation offered by Creation was fair and reasonable. Mr T disagreed with this outcome and told the investigator that he intended to pursue the matter through the court.

Creation continued to take a number of steps in pursuing the debt including recording missed payments on Mr T's credit file; advising him by letter on 30 May 2022 that if payment was not received, his account would start accruing interest; and sending him a

notice of default on 22 November 2022 demanding payment of arrears of €3,513.12. Mr T continued to chase Creation about the payment he made both directly and through legal advisers. He raised another complaint with Creation in early January 2023. On this occasion, Creation located the funds.

In its final response letter dated 24 January 2023, Creation acknowledged the payment made by Mr T of €4,360.53 was made using the correct payment details. But it said a 'coding issue' at its end, had prevented it from applying the payment to his account. Creation apologised to Mr T and said it would arrange for the payment made in June 2021 to be applied to his account and that this would be accepted as full and final settlement of the loan. Creation also said it would arrange for Mr T's credit file to be corrected. Mr T was subsequently notified that his credit file had been updated and his loan had been settled. Mr T remained unhappy and he referred the matter to us on 11 July 2023.

As part of its submissions to us, Creation said for the inconvenience it had caused, in addition to what it had set out in the final response letter, it had credited Mr T's loan account with €1,940.30. It said this was the shortfall of what was owed taking into account all instalments made by Mr T, the compensation applied for its initial mistake (€100) and Mr T's final payment of €4,360.53.

Our investigator thought Creation had taken sufficient steps to put things right and didn't think it had to do anything further. Mr T disagreed. He didn't think the compensation was sufficient to cover all his costs and it didn't adequately take into account the stress and inconvenience he had suffered. He also disputed the amount Creation said it'd written off his debt. Amongst other things, Mr T wanted Creation to pay for:

- legal costs of just over £7,000 (sterling);
- compensation for not being able to apply for, or get awarded, a public grant for an item he uses for work purposes;
- rental payments for an item he uses for work totaling €4,500, which was needed as a result of not obtaining the grant referred to above;
- €10,000 for the damage to his credit file which has prevented him from obtaining credit;
- Compensation of €7,500 for the stress and anxiety this issue has caused him.

Our investigator revised his initial view following further submissions from the respective parties. He recommended that Creation pay Mr T a total of £1,000 for the distress and inconvenience it had caused. Both parties disagreed and asked for an Ombudsman's decision on the matter. When the complaint was passed to me, I upheld the complaint and awarded Mr T £1,200.

Both parties responded. Creation asked about the legal costs incurred by Mr T. Mr T said that he didn't think the compensation I awarded adequately reflected the losses he had suffered as a result of Creation's mistake. He said because he was not based in the UK, he felt he needed to employ legal advisers to help him deal with Creation. He also said that Creation is not communicating with his legal advisers and continues to send him 'threatening letters'.

### **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.

To start with, I've taken on board what each party has said in response to my provisional

decision but I don't think anything that's been said, has changed my mind. I appreciate Creation wanted evidence of Mr T's legal costs but my award was for the distress and inconvenience it caused him over an extended period of time. I did not make an award for any legal costs. I also note Mr T's comments. He has not said what 'threatening letters' Creation has sent to him but as far as I can see, the debt has now been written off and he hasn't sent any evidence of Creation chasing him for this debt now it has been settled. So, for all the reasons set out below, I remain of the view that £1,200 is a fair and reasonable way to settle this matter.

I think it's important to be clear about what Mr T is complaining about here. He isn't complaining about the incorrect information being given to him on 29 June 2021. This was the subject matter of a separate complaint as I've outlined above. Mr T's complaint on this occasion is about Creation failing to locate his funds which were sent using the correct payment details. Creation now admits it did receive the funds and that it did not locate them due to a coding error. So, the only matter for me to resolve here, is what I think is the appropriate level of compensation for this mistake. And having taken everything into account, I am intending to require Creation to pay Mr T £1,200 for the distress and inconvenience it has caused. I'll explain why.

I've carefully considered the compensation Mr T has said he thinks should be awarded to him. From what he says, the majority of financial loss that he says he has suffered, has been as a result of the missed payment markers added to his credit file by Creation. But lending decisions are influenced by a range of factors. And from reviewing the credit reports Mr T has provided to us, there are several other factors which could have influenced any lending decision. For example, the credit file shows Mr T has a credit card marked as 'revoked' and the debt related to this of over €3,000 remained unpaid for a significant period of time.

Mr T has told us he was unable to pay this or other debts on his credit file due to ill health. Whilst I sympathise with him about this, without clear evidence that it was solely Creation's marker which caused him to be turned down for credit, I can't fairly or reasonably hold it responsible for the consequential losses he claims he has suffered as a result of the impact its mistake has had on his credit file.

Further, from what I can see Mr T decided to 'opt out' of the grant scheme rather than being turned down for it due to any issues with his credit file. From what he says, Creation's actions were indirectly responsible as he had to withdraw from this grant scheme due to not being able to obtain a loan. He says this was needed to fund the balance for the item the grant was going to be used for. But again, I can't fairly or reasonably hold Creation responsible for this as I don't think there is sufficient evidence to show it was the *cause* of Mr T's decision to opt out of the grant scheme when he did.

As regards to Mr T's point about being reimbursed for his legal expenses, my starting point is our service is a free alternative to court. And generally, we don't award costs for legal advice as we don't consider parties need legal representation to bring a case.

I accept Mr T isn't trying to claim for costs in bringing the complaint to us. Rather these are costs he said he incurred after he decided he wanted to pursue matters through the courts. This is what Mr T told our investigator who looked at his initial complaint about the incorrect payment details. But at that stage, he did have the option to escalate matters to an Ombudsman for a final decision if he didn't agree with the view the investigator had reached. And if he had done so, there was always a possibility that after the informal stage, an Ombudsman would have made a different decision or raised relevant points not yet covered.

I also note after his complaint was resolved with us, Mr T continued to engage with Creation both directly and through his legal adviser. And brought the present complaint to us without legal assistance when he wanted to escalate matters. That said, I want to stress that my role in deciding this case is not to criticise Mr T for the actions he has taken to try to resolve this matter. I appreciate Creation failed to discover its mistake for a considerable period of time. But for all the reasons set out above, I won't be asking Creation to reimburse any legal costs.

With all of that said, I do think Creation should pay Mr T compensation for the distress and inconvenience it has caused him. In this regard, Creation has disagreed with the amount recommended by our investigator. Amongst other things, it says it's already paid sufficient compensation for its mistake by writing off €1,940.30 in relation to the loan. But from what I can see this figure is based on a settlement figure which would have applied if Mr T had asked for this in, or around, January 2023 - this is around the time Creation discovered its mistake. And by this point, the loan would have accrued interest as its letter to Mr T dated 30 May 2022, said it would. However, Mr T made his final payment of €4,360.53 in June 2021, which was a year before the special offer period came to an end on 27 June 2022. A payment before this date would not have attracted interest.

So, in my view, but for Creation's mistake, Mr T would only have been liable for the amount he borrowed which was €5,631.27. From what I can see Mr T's payments under the agreement totalled €5,419.18. I accept this is slightly less than the amount he was required to pay but if Creation had applied it at the time it was paid, Mr T would still have been able to pay any shortfall before the special offer date expired which I think, on balance, he would have done. I also note Creation applied a further €100 to his loan account by way of compensation related to its initial complaint. Given all of this, Creation has written off just over €100 rather than the €1,940.30 it claims it has done.

In addition to the amount it has written off Mr T's loan, I consider Creation should pay a further £1,200 for the distress and inconvenience it has caused. I think this fairly and reasonably reflects the impact of its mistake on Mr T which caused him substantial distress, upset and worry. He has had to chase this matter up with Creation on numerous occasions as well as third parties such as his bank and the relevant EMT. He has been served a default notice and his credit file has been impacted. I think this issue has caused serious disruption to Mr T's daily life over a sustained period of time. I also consider Creation had more than one opportunity to resolve this issue much sooner. It doesn't appear to me that it had any more information in January 2023 when it discovered its mistake, than it did in June/July 2021 when Mr T first raised his concerns.

For all the reasons set out above, I am going to award Mr T £1,200 for the distress and inconvenience he has suffered as a result of Creation's mistake.

### **My final decision**

I uphold this complaint and I order Creation Consumer Finance Ltd to pay Mr T £1,200 for the distress and inconvenience it has caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 5 December 2024.

Yolande Mcleod  
**Ombudsman**