

The complaint

Mrs P complains Next Retail Limited (“Next”) were wrong to default her account and that when it did, it used the wrong date.

What happened

Mrs P has held a store card account with Next since 2005. The account fell into arrears in 2018. From 2019 number of reduced payment plans were agreed. A default notice was issued on 2 December 2020 and the account defaulted the following month as payment wasn’t received by the deadline. Mrs P complained to Next in 2024 about the default date used. She thought the default date was wrong as should go back to 2018 when she first ran into financial difficulty.

Next responded to her complaint but didn’t agree as it thought it had accurately reported the correct default date. Next told her although the account defaulted in early 2021 it had been backdated to 4 April 2019 as this was when her first repayment plan had been put in place. Mrs P referred the matter to us. Mrs P wanted Next to remove the default or correct its date to 2018. She said in line with guidance issued by the Information Commissioners Office (“ICO”) a default shouldn’t be filed if, jointly with a lender an agreement is reached for an arrangement and you keep to the terms of the agreement. She said she had kept to the arrangement so there shouldn’t have been a default. She told us she didn’t think the account should have defaulted as she’d been put into a payment plan which she’d stuck to until the debt was repaid. And, if she did have to have a default she thought that should be in line with the date she first got into financial difficulty.

Our investigator didn’t uphold the complaint. She found the terms of the arrangement Mrs P had in place with Next were broken in November 2020 due to non-payment. The default notice issued on 2 December 2020 wasn’t satisfied by the required date and the account defaulted the following month. So, she didn’t think Next had acted unreasonably by recording the default on Mrs P’s credit file. She also thought it was reasonable of Next to backdate the default notice to 4 April 2019, when the first payment plan was put in place, to help Mrs P. So, she didn’t ask it to do anything further.

Mrs P disagreed. She said there was never a missed payment on the plan and she had stuck to the arrangement and when she could settle the account. So, she thought, what the ICO said about sticking to the payments is exactly what she did. And she pointed out Next had reset the payment plan but she’d always paid so shouldn’t be defaulted. She sent us a series of screen shots from her Experian account to demonstrate the payments. She asked for an ombudsman to make a 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 come to the view this isn’t a complaint I can uphold. I’ll explain why.

Mrs P refers us to guidance published by the ICO "*Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies*" to support her view that this account shouldn't have been defaulted. She referred us particularly to the latter part of Section 4 which lists a set of circumstances where an account shouldn't be defaulted. But I don't think that part of the guidance can be read in isolation. I think it has to be read in context of the entire document and, particularly, the whole of the Section 4.

Section 4 begins by saying "*If you fall into arrears on your account, or you do not keep to the revised terms of an arrangement, a default may be recorded to show that the relationship has broken down. As a general guide, this may occur when you are 3 months in arrears, and normally by the time you are 6 months in arrears*"

The information I've seen satisfies me this account had been in arrears for over six months at the point Next decided to send the demand for payment and the default notice. The account is first recorded as being in arrears in November 2018. Next received a letter from Mrs P offering *reduced payments* of £5 a month for a period of six months on 29 March 2019. Further *reduced payment* plans for the same token amount were put in place in February and July 2020 for periods of six months respectively. The records from Next show there was no payment in November 2020. So, on the evidence before me, I'm satisfied Next could take the step to default the account following that missed payment in November 2020. And the information I've seen satisfies me it's followed the correct procedure when doing so. The default notice was sent on 2 December 2020 asking for payment by 1 January 2021. The payment wasn't satisfied by the required date. There's no suggestion Mrs P didn't receive this information or was in anyway unaware of what was happening on the account. So, I'm not going to ask Next to remove the default.

I've looked at the information Mrs P has sent us which appears to be screen shots of her credit file. Whilst they do show a balance generally decreasing by £5 a month, all the entries are undated. And they also show undated late payments and months where the status is unknown. I'm afraid this information isn't enough to contradict the full archived account history and breakdown from Next. So, it doesn't change my view.

I also looked at how Next treated Mrs P after she made contact about the account and told them she was in difficulties to see if the default was applied for the right reasons. Once Next were aware Mrs P was in financial difficulty, as far back as 29 March 2019, I'd expect it to treat her positively and sympathetically. Overall, I think Next did that. There were three separate six month *reduced payment* plans for a token payment of £5 per month in place from this point up to the point of the missed payment in November 2020. And when the decision was taken to default the account, it was backdated to the time of the first payment plan in 2019, which I think is reasonable, as it was the first point at which Next became aware of her difficulties. So, I'm persuaded Next acted as it should here and don't think the default date should change.

The backdating of the default to 2019 means it should drop off Mrs P's records around April 2025. Our investigator has given Mrs P guidance on how to file a notice of correction, explaining her circumstances, should she wish to do so before the default drops off.

Overall, for the reasons I've given, I don't think Next made any mistakes with it decided to default this account or in backdating it to April 2019. So, I'm not going to uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 28 February 2025.

Annabel O'Sullivan
Ombudsman