

The complaint

Mr E complains that Western Circle Ltd trading, as Quick Loans Express (“Western Circle”), registered a default in October 2019 in respect of one loan which Mr E says ought to have been registered several months earlier. It is affecting his financial status for longer than it needs to. Mr E wants the default date moved to around June 2019.

What happened

Mr E took a £600 loan from Western Circle on 22 November 2018. The total to pay was £942. It was due to be repaid in three instalments of £314.07 each. The two due on 31 December 2018 and 31 January 2019 were paid on time. The last instalment due 28 February 2019 failed to go through several times.

Mr E told Western Circle he was having to set up a debt management plan (DMP). He told them this on 1 May 2019. From 14 May 2019 the DMP payments commenced and these started at £9.46 each month. These were paid and the loan was paid off in June 2023.

Mr E says that the default registered 27 October 2019 is too late and it should have been around June 2019 when he entered the DMP. Western Circle responded to his complaint in July 2024 and said that the October 2019 default date was reasonable and justified. After the complaint had been referred to the Financial Ombudsman Service our investigator thought the same. Mr E disagreed and so it was passed to me to decide.

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.

I’ve thought about whether Western Circle’s action was fair and reasonable to register the default when it did, taking account of good industry practice and guidelines. I have decided not to uphold Mr E’s complaint. I realise Mr E will be disappointed but Western Circle has not done anything wrong.

Mr E does not dispute that there was a default registered but it is his view October 2019 is too late and is having a detrimental effect on his credit for longer than he thinks is correct.

I’ve considered what the Information Commissioner’s Office (ICO) says because it is the body which has been created and has issued guidance for lenders as to what, how and when information should be reported to the credit reference agencies.

This guidance can be found in its paper called “*Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies*.” I consider this to be good industry practice and so it is entirely reasonable to see what the ICO says about when a default ought to be reported. The guidance from the ICO has said this:

"The term 'default', when recorded on a credit reference file should be used to refer to a situation when *"the lender in a standard business relationship with the individual decides the relationship has broken down"*.

This is couched in terms that it is for the lender to decide when that point has been reached. And this must be balanced with the Financial Conduct Authority (FCA) guidance to offer any customer who has shown signs of financial difficulties, forbearance. And so, registering a default too early could be construed as overbearing and contrary to the requirement to offer forbearance.

The ICO sets out a clear expectation that should payments not be made in line with the credit agreement then adverse information can and should be reported to the credit reference agencies (CRAs) – its second principle says:

"2. Should a payment not be made as expected, information to reflect this will be recorded on your credit file

If you do not make your regular expected payment by the agreed time and/or for the agreed amount according to your terms and conditions, the account may be reported to the CRAs as being in arrears.

If this continues over time, the level of reported arrears will increase, which may result in the lender taking some form of action. This could include notification of their intention to report the account as "defaulted" (see Principle 4 below)."

The guidance then goes on to say

"4. 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.

But this is not a rule and is not an imperative.

Additionally, I do not think that the relationship had broken down with Mr E. There was evidence from the detailed account notes Western Circle has sent to us that the relationship was ongoing and Mr E was trying to make the payments. During the time Western Circle was asking Mr E for money for the debt several email exchanges took place which included:

- Mr E bringing an irresponsible lending complaint which was investigated and for which Mr E received the final response letter on 21 March 2019.
- Mr E offering to Western Circle a regular payment of £50 a month
- Mr E offering to clear the account by paying it using his credit card
- Mr E explaining to Western Circle about the DMP
- The DMP arrangement being set up.

A formal Notice of Default (which is not an actual default) was issued to Mr E on 2 April 2019 which gave Mr E until 16 April 2019 to cover off the arrears on the account. And it was before that 16 April 2019 deadline date that Mr E had got back in touch with Western Circle to try to clear the debt with his credit card. Western Circle was not able to take payment using a credit card.

That attempt at full repayment by Mr E, and the other occasions I have listed above, demonstrate to me that the relationship had not broken down. And so, I do not consider that Western Circle would have been doing the right thing to register the default when any and all of these things were going on between it and Mr E.

From 14 May 2019 the DMP payments commenced. But the account inevitably remained in arrears even with the £9.46 being paid each month. There was nothing unreasonable about Western Circle entering the default on 27 October 2019 which would have been well within six months of the DMP payments commencing.

There are no strict regulations as to when a regulated firm must or has to register a default. It's a matter for that firm to do it when it considers it fit considering the guidelines and all the circumstances of the lending relationship with its customer.

In relation to Western Circle and Mr E I do not uphold the complaint.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 25 April 2025.

Rachael Williams
Ombudsman