

The complaint

Mr J complains that PayPal UK Ltd ('PayPal') didn't report his account information accurately to the Credit Reference Agencies ('CRAs') following his bankruptcy.

Mr J would like his credit file amending.

What happened

Mr J was adjudged bankrupt on 6 June 2023 and was discharged from bankruptcy on 6 June 2024.

Mr J complained to PayPal, and subsequently to the Financial Ombudsman Service, that PayPal should've reported a default to the CRAs from 6 June 2023. Mr J said PayPal had reported late payments after this date. He was also concerned that his account had been blocked so he couldn't access his account now he'd been discharged from bankruptcy. Mr J either wanted his account open for use, or closed.

PayPal said they'd first been aware of Mr J's bankruptcy on 8 July 2023 when they'd spoken to Mr J. They subsequently issued a notice of sums in arrears and a default notice before defaulting Mr J's account on 9 August 2023. PayPal said they weren't reporting late payment markers for the months Mr J was querying.

Our investigator thought PayPal should backdate the default to the date of Mr J's bankruptcy, and take steps to remove any post-bankruptcy late payment markers on Mr J's credit file. He recommended PayPal pay Mr J £100 for his distress and inconvenience.

PayPal didn't agree, saying they were expected to report defaults based on when an account is unlikely to be paid. They said the Financial Conduct Authority ('FCA') and the Information Commissioner's Office ('ICO') do not mandate that a default date must also align with a bankruptcy order date as default reporting reflects a creditor's assessment of account delinquency. The matter was passed to me to decide.

My provisional decision

I recently sent the parties my provisional decision, saying:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've taken into account any relevant law and regulations, the regulator's rules, guidance and standards, codes of practice and (where appropriate) what is considered to have been good industry practice at the relevant time.

Having done so I'm minded to agree with our investigator and I intend to uphold Mr J's complaint. To put things right I intend to say that PayPal should amend their reporting in respect of Mr J's account, and pay Mr J £100 for his distress and inconvenience. I'll explain why.

The ICO gives guidance in its document 'Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies' ('PRAAD') and sets out

recognised industry practice for the reporting of defaults.

PRAAD explains that as a general guide a default may be recorded to show the relationship has broken down between the creditor and debtor when the debtor is three months in arrears, and normally by the time the debtor is six months in arrears.

I recognise that what PayPal said about a default reflecting their own assessment of delinquency is typically correct. I acknowledge that PayPal were anticipating that they'd take steps to default Mr J's account because of the arrears that were building.

However the ICO gives very clear guidance as to what should be reported when an individual is made bankrupt before their account is defaulted for arrears.

PRAAD states:

"4. Relationship of defaults to CCJs, decrees, bankruptcies, IVAs and similar Arrangements

.... In normal circumstances lenders will be notified when the debt that is owed to them is to be included in an insolvency e.g. bankruptcy, IVA or similar and should be marked as included in that by filing a default as soon as is practical.

The default date must be consistent with that of the CCJ/bankruptcy or IVA; therefore a default should be filed as being no later than the date of the insolvency order. In circumstances where the lender is not immediately aware, the default can be filed at that point in time. If evidence of the insolvency date is provided, the default date recorded at the CRA will be aligned.

If a default has already been filed and a CCJ or other insolvency or similar is subsequently registered, no further action is needed.

5. When an account is closed, the record should properly reflect the closing payment status of the account and any agreement between the parties

...Your record should be closed and marked as partially settled if:

- Your account is included in an insolvency such as a bankruptcy or IVA which is discharged / completed and less than the full amount is paid".*

In those circumstances I'm minded to say PayPal's reported default date of 9 August 2023 doesn't align with the ICO's expectations and doesn't follow what I'd consider to be good industry practice. I'm inclined to say it's fair for PayPal to backdate their default date to 6 June 2023.

I'm aware PayPal dispute reporting late payment markers to Mr J's account following his bankruptcy but he has shown me a recent copy of his credit file showing two late payment entries for June 2023 and July 2023. I'm aware this is around the time PayPal were taking action to default Mr J's account, as they sent him a notice of sums in arrears.

The FCA's Handbook includes specialist sourcebooks. CONC (the Consumer Credit sourcebook) is applicable here as it provides guidance for firms engaging with customers in default or arrears. I've considered CONC 7.3.16G which gives guidance that firms should not take steps to enforce a debt if they're aware a customer is subject of a bankruptcy order.

I've seen Mr J's correspondence to PayPal informing them of his bankruptcy on 1 July 2023, enclosing a copy of the bankruptcy order. And PayPal accept they were aware on 8 July

2023 following a conversation with Mr J.

I accept that service of a default notice is not technically enforcement of a debt, but I think PayPal were taking steps towards enforcement action when they sent their default notice to Mr J on 28 July 2023. I'm not inclined to say it was fair for PayPal to pursue Mr J for money once they knew of the bankruptcy, as their remedy was to submit a claim to Mr J's trustee in bankruptcy. I'm also mindful that after 6 June 2023 Mr J was obliged to follow the rules of his bankruptcy which prevented him from making direct payment to PayPal, which would have been in preference to his other creditors. I'm not inclined to say it's fair for PayPal to report late payments for June and July 2023 in these circumstances.

Mr J's also concerned that his account was blocked following his bankruptcy, and even after his discharge he's not been able to use his account. However I'm not minded to say this was unfair, as PayPal had the right to do this under the terms and conditions of the account.

Clause 8 says PayPal can limit the use of an account where they reasonably believe there's an increased risk they won't be repaid, and I'm minded to say a recent bankruptcy would be reasonable grounds to suspect a financial risk.

PayPal have now confirmed they've closed Mr J's account, in accordance with his request.

I've considered the impact of this matter on Mr J. I'm mindful that Mr J has chased PayPal for confirmation that they'd correctly defaulted his account, and he's had to raise a complaint with PayPal and with the Financial Ombudsman Service to get a resolution here. So, I'm inclined to say Mr J has been put to unnecessary distress and inconvenience.

In the circumstances I consider our investigator's proposal that PayPal pay £100 to Mr J fairly reflects this, and is in line with our approach.

In the circumstances, I intend to say PayPal should take the following action to put things right:

- (i) remove any late payment markers they're reporting from June 2023 onwards*
- (ii) report Mr J's default date as 6 June 2023*
- (iii) pay Mr J £100 for his distress and inconvenience."*

Responses to my provisional decision

PayPal agreed to my proposals but clarified they weren't reporting any late payment markers after the date of Mr J's bankruptcy.

Mr J didn't disagree with my proposals to put things right but forwarded me a chain of correspondence between the ICO, PayPal and himself. This highlighted Mr J's concern that PayPal hadn't taken the recommended action in my provisional decision, and weren't being honest about how his account closure had come about.

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.

Given the response of the parties, I will adopt my provisional decision as my final decision, for the reasons provided. PayPal should put things right as I've set out below.

If Mr J accepts my final decision it will become binding on both him and PayPal, and PayPal are under an obligation to comply promptly with any award or direction I make.

I understand the changes will take 6-8 weeks to update on Mr J's credit file, and so Mr J should wait for this time to elapse before raising any concerns that PayPal haven't put things right.

Putting things right

PayPal UK Ltd must:

- (i) remove any late payment markers they're reporting from 6 June 2023 onwards
- (ii) report Mr J's default date as 6 June 2023
- (iii) pay Mr J £100 for his distress and inconvenience

My final decision

For the reasons I've outlined, my final decision is that PayPal UK Ltd must put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 7 July 2025.

Clare Burgess-Cade
Ombudsman