

complaint

Mrs H complains that a default marker should have been put on her credit file when she was issued with a default notice in 2008. She says this means the default wouldn't now show on her file as more than six years have passed since it should have been added.

background

The background to this complaint, and my initial conclusions, were set out in my provisional decision dated 20 November 2018- a copy of which is attached and forms part of this final decision.

In my provisional decision I explained why I thought this complaint shouldn't be upheld and invited both parties to send any additional comments or evidence they wished to make.

Lowell Financial Ltd didn't want to provide any further information for me to consider and said it accepted the provisional decision. But Mrs H hasn't responded and therefore hasn't provided anything further for me to consider.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. As neither party has provided any further information for me to consider, I see no reason to change the conclusions I came to in my provisional decision.

my final decision

For the same reasons I've already given in my provisional decision, I don't uphold Mrs H's complaint against Lowell Financial Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 22 February 2019.

Keith Lawrence
ombudsman

copy of provisional decision

complaint

Mrs H complains that a default marker should have been put on her credit file when she was issued with a default notice in 2008. She says this means the default wouldn't now show on her file as more than six years have passed since it should have been added.

background

Mrs H had a credit card which went into arrears in 2008. The credit card provider issued her with a default notice but eventually worked with Mrs H to accept a debt repayment plan. So it didn't put a default marker on her credit file.

In April 2016 Lowell Financial Limited (Lowell) wrote to Mrs H informing her that it had purchased her debt from the original credit card provider and would be managing the account moving forwards. It said that it required the debt management company to continue to make payments directly to Lowell's until the debt was repaid.

In April 2018 Mrs H wrote to Lowell about her outstanding debt. She said she'd now become aware that this debt would remain on her credit file for six years following the date she settles it. She said that the original credit card provider should have added a default on her file back in 2008. And, had it done so, all records of this debt would've been deleted from her credit file in 2014.

Lowell didn't uphold the complaint. It said the debt had been sold to them on a non-default basis and that was how it had continued to report it to the credit reference agencies. Lowell said it would only look to put a default marker on Mrs H's credit file if her relationship with it had broken down, which it hadn't.

One of our investigators looked into the complaint and said it shouldn't be upheld. She said that Mrs H's credit file was currently a true reflection of her relationship with lenders and as her relationship with the original credit card provider hadn't broken down – she began a debt management plan with its agreement - it was right not to apply a default marker.

The investigator went on to explain that even if a default marker had been applied to Mrs H's credit file then the debt would have still been outstanding after six years and further demands for payment could have been made.

Mrs H provided evidence to show that, in her opinion, the relationship with the credit card provider had broken down in 2008 because it had issued her with four separate default notices. She believed this should have led to it adding a default marker to her credit file at the time. And if it had, that record would no longer appear on her credit file. No resolution could be found so the complaint's been passed to me for a decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mrs H has complained about the original credit card provider's actions in not applying a default marker to her credit file in 2008 when she said their relationship had broken down. And I've seen evidence from Mrs H to show why she believed that to be the case. But this complaint is about Lowell's actions, and how it's dealt with Mrs H's account and it's only managed her debt since 2016. So I'm not going to look at what should or should not have happened from 2008 to 2016.

The information commissioner's office (ICO) has issued "*principles for the reporting of arrears, arrangements and defaults at credit reference agencies*" which gives lenders guidance on what to do in such situations. The first principle is that data reported on a credit file "*must be fair, accurate, consistent, complete and up to date*", and further that "*should your account be sold or referred to another lending organisation or a debt collection agency, the records providedmust still be accurate and up to date*". I think that when Lowell wrote to Mrs H in 2016 and explained that it required the debt management agency to continue making payments to it, this reflected an accurate and up to date summary of Mrs H's credit status.

As far as Lowell was concerned the debt was sold to it on a non-default basis. I don't think there was a requirement for it to confirm whether any defaults should have been recorded in 2008 just that the repayment arrangement was being maintained and was up to date. The evidence that I've seen shows that the arrangement was up to date. I've already stated that I won't be looking at the events of 2008 as Lowell wouldn't have been involved in that decision. So, I've gone on to consider what Lowell's responsibility was and how I think it should have acted.

The ICO guidance also stated "*If you are subject to a debt management programme managed by a third party (such as StepChange) this will be shown on your credit file so that lenders know you are subject to this type of arrangement*" and also "*If an arrangement is agreed, a default would not normally be registered unless the terms of that arrangement are broken.....A default should not be filed: if jointly with the lender an agreement is reached for an arrangement and you keep to the terms of that agreement*".

So I think it's clear that Lowell's had a duty to record up to date and accurate credit information, and in Mrs H's case that was to record that payments were made according to the arrangement with the debt management company *unless* that arrangement was stopped and Mrs H's relationship with Lowell broke down.

The evidence I've seen showed that only one payment was missed after Lowell took over the debt. But I don't think that was sufficient to bring about a default notice. Indeed I've seen that the month after that missed payment Mrs H asked Lowell if she could make personal payments on top of the ones the debt management company was making for her.

So, I can't say that Lowell has done anything wrong here as it's followed the ICO guidance about debt and from what I can see it has only ever recorded accurate information about Mrs H's account on her credit file. I don't think Lowell had any reason to add a default onto her account and I don't think Lowell can be held responsible for what should have happened eight years before it took over the management of Mrs H's account. I know Mrs H will be disappointed with this provisional decision because she's concerned that a record of the arrangement will remain on her file for many years until after she's been able to pay off the debt. But Lowell has a duty to record the credit information accurately to reflect Mrs H's true circumstances. And based on what I've seen I think it has accurately represented her situation in line with what's happened since 2016.

my provisional decision

My provisional decision is that I don't intend to uphold Mrs H's complaint against Lowell Financial Ltd.

Keith Lawrence
ombudsman