

complaint

Mr M complains that WDFC UK Limited (trading as Wonga) wrongly recorded a default on his credit file. He asks that the default is removed.

background

Mr M took out a loan with Wonga in mid 2013. He was unable to repay the loan when it was due in July 2013. Wonga recorded a default on his credit file in January 2014. Mr M says Wonga didn't give him notice before recording the default. He says he recently found out about the default when applying for a mortgage. He says Wonga shouldn't have recorded the default without giving him notice and an opportunity to pay the debt.

The adjudicator didn't recommend that the complaint should be upheld, saying:

- Wonga's notes show that several repayment plans were agreed between August 2013 and October 2013. Mr M didn't maintain the plans. After this, Mr M didn't make any contact with Wonga about repaying the loan until late 2014.
- Wonga couldn't provide evidence it sent a notice about recording a default. But it wasn't certain Mr M would have been able to settle the debt if he had received a notice.
- Wonga is entitled to take steps to recover a debt. It's obliged to report accurate information to the credit rating agencies.
- Wonga says it told Mr M that settling the debt would improve his credit rating. While businesses use their own credit scoring, it's possible that marking a debt as satisfied would improve the credit score.

Mr M didn't agree. He said he wasn't able to keep up with the repayment plans with Wonga and other lenders. It took time to sort out his debts. Mr M says if he'd known about the default he'd have found a way to repay the Wonga loan, such as selling his car. Mr M asked whether recording a default without giving notice was legal.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Mr M sent a copy of his credit report. This shows Wonga recorded a default on his loan account in January 2014.

While the Consumer Credit Act requires lenders to issue a default notice in certain circumstances, it doesn't require lenders to issue a notice before recording a default with the credit reference agencies. But I think it is good practice for a lender to inform a debtor about its intention to record a default and allow the debtor an opportunity to avoid this.

The information Wonga provided to Mr M when he took out the loan explained the consequences of missing payments, including that it would *"tell credit reference agencies*

that you have not paid. This information may be kept on your file at the credit reference agencies and may make it more difficult for you to obtain credit in the future”.

Mr M didn't pay the loan when it was due (in July 2013) and didn't maintain payment arrangements. I think the loan was in default when the default was recorded in January 2014.

Mr M says Wonga didn't tell him it intended to record a default, so he didn't have an opportunity to repay the debt to avoid this. While Wonga says it gave notice to Mr M, it can't provide a copy of the notice to us or other evidence to support this. On balance, I'm not persuaded Wonga did inform Mr M of its intention to record a default.

From the information I have about Mr M's circumstances at that time, it seems unlikely he was able to repay the loan. I asked Mr M if he could provide any evidence he'd have been able to avoid the default – for instance by agreeing and maintaining a payment arrangement. I also asked him to explain why he didn't maintain the payment arrangements with Wonga or keep in contact after late 2013. Mr M didn't respond.

I'm not persuaded Mr M would have been able to avoid the default being recorded on his credit file if he had received a notice. I don't think it's reasonable to require Wonga to remove the default on the basis that it didn't send a notice to Mr M before it recorded the default on his credit file.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 24 July 2017.

Ruth Stevenson
ombudsman