

## **complaint**

Mr M complains that Express Gifts Ltd (trading as Studio) has not taken proper account of his financial difficulties when dealing with his debt to the company.

## **background**

During 2014 Mr M bought some items on credit from Studio's catalogue. He made the first two payments. He still owed about £80, but made no more payments. Studio sent him monthly statements and then notices about the arrears. Mr M was asked to contact Studio but did not do so. Mr M contacted this service in early December after receiving a default notice: by that point, with the addition of fees and charges, the debt had risen to nearly £140. Mr M said he would like the letters from Studio stopped and the debt written off. In March 2015, after contact from this service, Studio told Mr M it was not upholding his complaint as it had sent him numerous communications and he had not contacted Studio to try to make any payment arrangement. In May Mr M sent Studio a partly completed income and expenditure form, which suggested he had no surplus income. Studio responded recommending he took free financial advice from a well-known debt advice charity, and saying it would suspend action on the account for a month to give him time to do that.

Our adjudicator felt that it would be reasonable for Studio to write off the debt. She said that it was not clear exactly what communication Studio had had with Mr M. She thought the letter referring Mr M to the debt charity was insufficient assistance. From the income and expenditure form Mr M did not seem to be in a position to pay back the debt. He had debts with other businesses and received only limited benefits.

Studio disagreed. It went through the history of the account and its letters to Mr M, key ones of which had included the FCA's information sheet on dealing with debts. It emphasised that it had tried but been unable to make contact with Mr M as he did not respond to its letters. As he told us, his phone had been cut off. If Mr M had contacted Studio before May it would have taken steps such as agreeing an arrangement, suspending payment or freezing the account. But the income and expenditure form had only been received in May, after the account had been passed to a debt collection agency: this was after Mr M had complained to us. It was unable to make arrangements with Mr M whilst his income and expenditure form showed a deficit. It felt it had allowed a reasonable time for payments to be made, cancelled the interest and charges following the default, deferred payment of the arrears and provided a significant amount of information and guidance through its correspondence.

## **my provisional decision**

After considering all the evidence I issued a provisional decision to both parties on 3 August 2015. I summarise my findings.

While I could not be sure exactly what letters and notices Mr M got from Studio, he certainly was getting some or all as his original complaint to us referred to letters about the debt. I had not seen any evidence that Mr M responded to any of those initial contacts from Studio: that was a pity as he might then have been able to reach some agreement with it and charges might have been stopped sooner. When it had no contact from Mr M and no payments, I thought Studio acted reasonably by going ahead with issuing a default notice. It then stopped adding charges to the account.

After some time Mr M contacted us and, after the debt had been passed to a debt collection company, he partially completed an income and expenditure form. Even then he did not enter full details of his debts on the form, so Studio only had a partial picture. I could not see grounds for me to criticise Studio for not doing more sooner: until it saw that form it did not know Mr M's situation.

I thought it was reasonable for Studio to refer Mr M to the debt charity once it saw the form. In his financial situation, with a number of debts, Mr M might have benefited greatly from the charity's help. That suggestion was a positive and sympathetic one. Obviously it would be helpful to Mr M if Studio was willing to write off the debt, but I did not think it was unfair or unreasonable for Studio not to have agreed to do that - so far. Without a fuller picture of Mr M's financial situation than is on the form he partially completed, it is difficult to be sure what other options there might be for dealing with this and other debts Mr M has. He has referred to the stress caused by his debt situation. There was a good chance that could be eased if he sought advice and support in dealing with matters from an organisation such as the charity or Citizens Advice. But if he preferred not to, then he would need to liaise directly with Studio or the debt collection agency about the debt.

So subject to any further comments or evidence from either party, my provisional decision was not to uphold this complaint.

Neither Mr M nor Studio responded to my provisional decision.

### **my findings**

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

But without any further comments or evidence from either party, I see no reason to change my provisional decision not to uphold the 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 Mr M to accept or reject my decision before 30 October 2015.

Hilary Bainbridge  
**ombudsman**