

## **complaint**

Mr M complains that Creation Financial Services Limited (“Creation”) lent irresponsibly to him and should now write off his debt. He says at the time of his application he was suffering mental health problems that made it difficult for him to manage money and he says the debt is making his mental health worse.

## **background**

Mr M applied for credit through Creation in September 2017. His credit limit was set at £1,500.

He said that Creation shouldn’t have accepted his application because it was clear his poor mental health meant he wasn’t able to manage his finances. He provided a copy of a medical form in which his GP confirmed the nature of his ongoing condition. The GP explained in this form that Mr M was anxious; lacked motivation, concentration and memory and didn’t show current signs of improvement. The GP explained that this would mean Mr M would have problems managing money. Mr M said that Creation should therefore write off the debt as his condition wouldn’t improve; he had no way of paying the money back and his anxiousness was making his health deteriorate.

But Creation didn’t agree. They said that they didn’t know about Mr M’s mental health problems at the time of his application. They did know that he was receiving disability allowance but noted, in his application for credit, that he only had one other creditor (£1,750 on a credit card) and that he’d declared his household income as between £25,000 and £29,000. They said they’d taken account of the expenditure he’d informed them about and ran a credit check. But as these had not raised concerns, they didn’t think they’d done anything wrong when providing Mr M with limited credit. He had, in their opinion, sufficient disposable income. They say his unblemished account performance since the account started, shows that he was able to afford the repayments.

They didn’t think they should write the debt off. They explained that they had offered to freeze the account so that Mr M didn’t have to pay towards it and wouldn’t accrue any charges or interest. They said they’d do this for six months before reviewing the situation again. But they explained that Mr M didn’t want to freeze his account as he was concerned it would affect his credit file. They explained that they weren’t persuaded that Mr M wouldn’t ever be in a position to recommence payments. So they didn’t think they should write off the debt. And they went on to explain that they would have to report any frozen account to the credit reference agencies as they were compelled to do that by law.

So Mr M referred his complaint to this service and our investigator took a look. But he didn’t think Creation had done anything wrong. He didn’t think the information Creation were provided with, when Mr M applied for the credit, would have given them cause for concern. He noted that Mr M appeared to have enough disposable income to manage the credit.

He thought that the fact Mr M had explained he was keen to rebuild his credit rating was evidence that he was concerned about and actively managing his finances. And he noted that Mr M was not in arrears and had managed his account well. This persuaded him that it was likely he had sufficient ability to manage his finances.

He thought that, once Creation were aware of Mr M’s condition, they had reacted responsibly and sympathetically and that they’d been supportive when offering to freeze his

account. But he explained that Creation didn't have any discretion when complying with the rules and reporting this to the credit reference agencies. With all this in mind, he wasn't persuaded that Creation needed to write the debt off.

But Mr M was still disappointed. His wife responded on his behalf and explained that his condition severely limited his ability to make reasoned decisions. She explained that the GP report clearly stated he was experiencing problems that affected his ability to manage money. And she went on to explain that his condition had worsened recently. She said her husband was seriously ill when he applied for credit and that the agreement was therefore flawed. And she went on to describe how Mr M's anxiousness led him to make payments against his debt but this didn't mean he could afford the payments – he couldn't.

So Mr M asked for an ombudsman to make a final 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.

I know it will disappoint Mr M but I agree with the investigator's view. Please let me explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

#### *should Creation have been aware of Mr M's mental health issues?*

Creation weren't aware of Mr M's mental health problems until March 2018. They appear to have been informed that he was in receipt of disability living allowance when he made his application but I'm not persuaded that this meant they should have been aware he had difficulty managing money. They weren't provided with that information until after Mr M's application had been approved: when they were provided with a debt and mental health evidence form (DMHEF) from his GP.

I also thought about whether there was anything in Mr M's application that would have meant Creation should have been alerted to his mental health problems and vulnerability but I don't think there was. And even if they had been aware of his situation, whilst it may have changed how they managed his account, it may not have impacted on the decision they'd made. The fact that he had mental health issues shouldn't necessarily impact on the provision of credit.

#### *was the credit provided irresponsibly?*

Before agreeing to provide credit a business should check that the credit is affordable. The type of checks which a business should carry out should be proportionate, so (for instance) a mortgage lender will ask for bank statements and payslips, but a catalogue offering a low credit limit doesn't have to go into so much detail.

In considering this complaint, I've looked at whether Creation carried out proportionate checks, and at what information they had been given about Mr M's financial circumstances. The methods Creation used to establish affordability were for them to decide but the practices and procedures they used had to be effective. And the depth of their analysis could be proportionate to the amount of money being requested.

The information they were provided with by Mr M suggested there was enough money to manage the repayments. The credit reference report they received told them he only had one other creditor and the credit check they performed supported his application. He set out his income and expenditure and that too seemed to suggest he had sufficient disposable income to manage.

Mr M was applying for a relatively modest sum of credit so I would not expect Creation to apply extremely stringent analysis when authorising it – their analysis could be proportionate and I think it was. So I haven't seen evidence to suggest the credit was provided irresponsibly.

*has Creation responded appropriately since it was told of Mr M's vulnerability?*

Once Creation were made aware of Mr M's vulnerability I would have expected them to have responded sympathetically and to follow industry guidelines such as those from the Money and Advice Liaison Group (MALG) for helping consumers with debt and mental health issues.

I think they were sympathetic and supportive. They ensured that Mr M's account was managed by a specialist team who had experience of dealing with mental health and they offered to freeze his account and stop it accruing interest and charges.

But they didn't have to write off Mr M's debt. In order to do that they would have had to be convinced that there was little chance of Mr M ever being able to pay off his debt and that Mr M's condition would not improve.

I was very sad to hear that Mr M's condition has worsened and I understand that the DMHEF doesn't paint a good picture of his condition. But there isn't evidence that Mr M *won't* get better and I don't think Creation are doing anything wrong by holding on to the debt in case he does and they can recover the money he's had the benefit of.

I believe the option for Mr M to have the debt frozen is still available and he may wish to consider this again as, although it will need to be reported to his credit file: as Creation are compelled to do this, it will mean that he won't need to make payments, pay charges or interest. Creation has suggested they would want to review the frozen account after six months and if the situation hasn't improved I wouldn't expect they'd want to unfreeze the account.

I would like to offer my sincerest sympathies for the distressing situation Mr M finds himself in. It was with great sadness that I read his case but I'm afraid that I don't think it would be reasonable to tell Creation to take any further action here.

**my final decision**

For the reasons I've given above I don't 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 17 January 2019.

Phil McMahon  
**ombudsman**