

## **complaint**

Mrs B complains about a store card account she has with Creation Financial Services Limited. As a result of ill health she has experienced financial difficulties and she is unhappy that despite making repayments to the account the balance has increased significantly.

Mrs B is represented in her complaint by her local Citizen's Advice Bureau (CAB).

## **background**

The adjudicator ultimately recommended the complaint be upheld. She noted that Creation had taken action to assist Mrs B in her position of financial difficulties but she thought that Creation could and should have done more. She felt it should have been clear after a period of time that Mrs B's circumstances were unlikely to change. And she did not think it was fair or reasonable to continue to apply the level of interest and charges to the account.

She recommended Creation refund all of the interest and charges it had applied to Mrs B's account since May 2009 and if necessary default the account. She also recommended Creation pay Mrs B £100 for the distress and inconvenience she has been caused.

Creation did not accept the adjudicator's conclusions and the complaint has been referred to me so a final decision can be issued.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have upheld this complaint.

Mrs B says she started to experience financial problems in 2008, which was approximately seven years after opening the account. If an account holder is experiencing financial difficulties Creation is required to treat the customer in a positive and sympathetic way. I accept that Creation did respond to Mrs B's financial difficulties when it was first contacted about this. However, Mrs B is still in financial difficulties after more than three years and I have not seen any indication that her position will likely change at any time in the near future.

Accepting reduced payments and lowering the interest rate on an account may be reasonable for a short period of financial hardship. However, having considered the circumstances here, which includes the period of financial difficulties, the repayments Mrs B was making and the level of interest that was being applied to the account each month, I do not think Creation has treated her in a positive and sympathetic manner.

The debt has increased considerably since Mrs B made creation aware of her financial difficulties. I appreciate that this is in some part because of an insurance fee that was added to the account, which is subject to a separate complaint by our service. However, even after allowing for the monthly cost of the insurance, as the interest is significantly more than what Mrs B is able to repay the balance has increased substantially.

There is no to suggest that Mrs B's circumstances will change and the debt would therefore simply continue to increase further.

I think it is reasonable to expect Creation to periodically review the consumer's circumstances. Had it done so I think that it should have been clear to Creation that Mrs B's financial difficulties were not likely to be a short term problem but would likely continue for some time. It is clear now that Mrs B's financial difficulties have lasted for several years but I think this was also foreseeable with some reasonable enquiries within a relatively short period after Mrs B made Creation aware of her financial difficulties.

Had Creation reviewed Mrs B's circumstances six months after she first made it aware of her financial difficulties creation would have been aware that the action it had taken was having no real benefit to Mrs B. I think at that point Creation should have realised that Mrs B's circumstances were unlikely to change in the foreseeable future and stopped applying interest to the account.

I appreciate this may have meant that it had to default the account to do this. But considering the position that Mrs B was in, and the likelihood of other account debts having already been defaulted, I think this would have been a more constructive way to deal with her circumstances. By defaulting the account, or simply stopping interest being applied, Creation would have been able to prevent the debt from increasing by such a dramatic amount.

Having carefully considered the submissions from all parties I am not persuaded that Creation has treated Mrs B in a positive and sympathetic manner. I think it is reasonable for Creation to refund any interest and charges that have been applied since May 2009 (six months after Mrs B made Creation aware of her financial difficulties). Should Creation need to default the account to do this then I would not consider this to be unreasonable. Any default should however be recorded as being from May 2009 and not now.

I also agree with our adjudicator that Creation's actions would have been somewhat distressing and it should make a payment of £100 in respect of this. This payment should be made directly to Mrs B and not deducted from the account balance. Should Mrs B wish to use the £100 to reduce the debt then she will be free to do so.

Finally, I will again stress that I have not considered the issues relating to the insurance on this account and that is a complaint that is being considered separately. The parties should hear about this in due course.

### **my final decision**

My final decision is that I uphold this complaint and I direct Creation Financial Services Limited to:

- stop applying interest and charges to the account, which may involve applying a default to the account from May 2009;
- refund all interest and charges that have been applied to the account since May 2009; and,
- pay Mrs B £100 for the distress and inconvenience she has been caused.

If Creation does not pay the settlement within 28 days of when Mrs B accepts my decision interest at 8% simple per year should be added to the payment.

Once the adjustments have been applied to the account Creation should also send Mrs B an up to date account statement showing what is still due on the account.

Mark Hollands  
**ombudsman**