

complaint

Mr N complains that Home Retail Group Card Services Limited (HRG) defaulted his account and sold it to a debt collection agency I will call M.

background

Mr N has a store card account with HRG which fell into arrears. He had to leave the country due to a family matter in March 2018 and returned in September 2018. While away he made several payments, but these were less than was due. On his return he called HRG to discuss a payment he had made on 24 September he discovered his debt had been sold to M.

HRG says that a statement of account which had been unpaid since 1 April and was in arrears by £105.71 was sent to Mr N on 26 May. The account remained in arrears and a default notice was issued on 6 June and the default was recorded on 22 July. The debt was then assigned to M. Mr N had made several small payments during this period, but below the minimum due. It says Mr N didn't tell it he had gone abroad due to a family emergency, but it noted he had online access to his account.

Mr N complained to HRG that it hadn't told him it had assigned his debt and he hadn't been aware the account had been defaulted. He asked that the debt be returned and his credit amended. It rejected his complaint and so he brought the matter to this service. It was considered by one of our investigators who didn't recommend it be upheld.

She noted Mr N had gone abroad unexpectedly but he had been able to make payments online during this period. However, he failed to make the minimum payments required. As a result the account had fallen into arrears. HRG had sent him a number of communications seeking the required payment, but this hadn't materialised.

She explained that the Information Commissioner's Office (ICO) says when a consumer is at least three months behind with their payments then a default may be registered. Mr N was three months behind when HRG issued a default notice. She didn't believe it was unfair that HRG took this step.

The default notice said further action could be taken if no payment was received. It explained, "*We will terminate your agreement and demand full repayment of the outstanding balance. Your account will be referred to a Debt Collection Agency, with instructions to consider legal proceedings against you.*" It suggested he contact the business so it could resolve the matter, but he didn't do so. Matters took their course and the debt was assigned to M. It was responsible for notifying Mr N that it now owned the debt.

Mr N didn't agree and said he had made some payments during the period and after he had returned. He queried why HRG had taken money after it had assigned the debt. The investigator said that HRG hadn't taken the payment, but rather Mr N had made it by card. The payment was made after the default had been issued and the debt assigned. Furthermore even with the late payment Mr N remained in arrears.

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 can appreciate that Mr N failed to notify HRG when he went away unexpectedly, but I can see that he was able to make token payments online while away and I have seen no reason why he was prevented from letting the business know of his personal situation. It was open to him to have used the online system to make contact.

It was unaware of his situation and noted he was failing to make proper payments and was ignoring letters. Mr N has suggested it could have emailed him, but it wasn't obliged to do so and it didn't know the letters were not being seen by him. HRG followed its normal procedures in making contact with Mr N and seeking payment from him. When full payment wasn't received it notified him the account would be defaulted.

When it got no response to the default notice it defaulted the account. This is what I would expect it to do. That default is noted on Mr N's credit reference file and it reflects the status of his account, as it should. I don't consider there are grounds that would allow me to direct HRG to remove that notice. It is an accurate reflection of the account.

It is down to M to let Mr N know that it had taken over the debt and HRG wasn't obliged to tell him. I appreciate Mr N made an increased payment after his return, but I am afraid that was too late. The default has already been recorded and I cannot conclude that HRG has done anything wrong. It followed the correct processes and I fear that this situation has arisen because Mr N didn't talk to HRG.

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 N to accept or reject my decision before 2 August 2019.

Ivor Graham
ombudsman