

complaint

Miss G complains that Lowell Portfolio I Ltd won't remove a default registered on her credit file.

background

This default was registered originally by a third party I'll call S. It relates to an account Miss G opened in 2013. She experienced some very difficult circumstances during the following year and the account fell into arrears. S applied a default in June 2015 and sold the debt to Lowell not long after.

Miss G says she should never have been given the original account as she wasn't capable of managing her finances and couldn't afford it. Then she had to move and was without a fixed address for some time, so she didn't receive notice of the default. Miss G thinks it's unfair to record a default in these circumstances. And other creditors have removed defaults they registered around the same time, so Lowell should remove this one.

Lowell considers the default was registered properly - as no payments were received from November 2014. And it can't remove the default because it correctly reflects the status of the account - and Lowell has report to credit reference agencies accurately. As a goodwill gesture, Lowell has closed the account and it won't take any further action against Miss G for the money.

Our investigator isn't persuaded that Lowell has done anything wrong. He's satisfied it wasn't wrong to register the default. And Lowell's not required to remove it now because other creditors have removed defaults. He thinks Lowell has responded positively and sympathetically to Miss G's complaint by agreeing not to chase payment - so it wouldn't be reasonable to require Lowell to do anything further.

Miss G thinks this is unfair and she's asked for an ombudsman to review the matter.

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 am sorry to disappoint Miss G but I have reached much the same conclusions as our investigator for broadly the same reasons.

I have a great deal of sympathy for the situation Miss G finds herself in. I want to assure Miss G that I have considered everything she's said carefully. I can see she's been through a lot. And I understand she wants Lowell to remove this default because she feels it's stopping her moving on with her life.

The account this default relates to was a catalogue shopping account - Miss G ordered goods and S extended her credit to pay for them. I'm satisfied Lowell has asked S about the payments made and the circumstances surrounding the registration of the default. And I don't think it's unreasonable for Lowell to rely on the information S provided.

Lowell says S offered Miss G a payment plan, when she first experienced financial difficulties. And it sent correspondence, including notice of the default, to her last known address before the account defaulted. Miss G says she didn't receive the default notice -

because she was no longer at the address S had on record. And I understand she considers it was wrong to record a default in the light of the difficulties she was facing at the time.

I've considered guidance produced by the Office of the Information Commissioner which sets out when it would expect a creditor to record a default. That says the account must be at least three months in arrears. It looks as if Miss G's account had been in arrears for longer than that when this default was registered. And I don't think she was in a position to repay the debt at the time, even if she had received the default notice. So I'm not persuaded it was wrong to record this default and I can't reasonably require Lowell to remove it now.

Miss G has explained that the default is making it difficult for her to get credit and accommodation. She says several other lenders have removed defaults, so I can see why she thinks it's unreasonable of Lowell to refuse to do so. But, I can't comment on the decisions made by other lenders, in this complaint. And the fact that others may have removed defaults doesn't mean I can reasonably order Lowell to do the same.

I would expect a financial business to respond positively and sympathetically in these circumstances. I consider Lowell has done so by closing the account and confirming it won't pursue Miss G for the debt, of over £800. So I can't reasonably require Lowell to do anything further.

I know this isn't the outcome Miss G wanted and I realise it probably feels very unfair. I understand her frustration and I'm sorry if she feels let down. As Lowell has suggested already, Miss G may wish to consider adding a notice of correction to her credit report. That would allow anyone looking at her credit file to have a better understanding of how this default came about - and take that into account when considering her financial situation. Our investigator, or the relevant CRAs, can provide more information about this if Miss G needs it. I wish Miss G well for her recovery and the future.

my final decision

For the reasons I've explained above, my decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 26 June 2017.

Claire Jackson
ombudsman