

complaint

Ms D complains that Creation Financial Services Limited (trading as Creation Cards) refused to renew her payment arrangement when it expired, although her financial situation had not changed and she had submitted an income and expenditure form to confirm this.

background

Ms D had a closed credit card account with Creation Cards. She had agreed a payment arrangement with Creation Cards under which she was repaying her debt by monthly payments of £35 at a reduced interest rate.

In January 2012, Ms D received a letter from Creation Cards saying that her payment arrangement would expire on 1 February 2012. If she wished it to continue, she should complete and return the financial statement form it enclosed. Ms D says she did complete and return the form.

Creation Cards says that it did not receive the form. Accordingly, on 3 February 2012, it wrote to Ms D and told her she had to resume paying contractual interest and contractual minimum monthly payments. Ms D phoned Creation Cards but was confused by the information she was given, and the correspondence she received.

She complained to Creation Cards. In March 2012, it responded that it was not obliged to set up temporary repayment arrangements. However, if she completed the further statement form it sent her, it would consider this. Ms D considered she was being ignored, and complained to this service. In the meantime she has continued to make monthly payments of £35, albeit at a higher interest rate – currently 36.9% APR.

our adjudicator's view

Our adjudicator did not recommend that this complaint should be upheld. He considered that Creation Cards was entitled to review the payment arrangement. In March 2012, it had said it would consider a further payment arrangement if Ms D completed and returned a further financial statement. Accordingly, he considered it had treated her positively and sympathetically.

Ms D responded to say, in summary, that:

- following Creation Card's first request, she had sent it a financial statement by recorded delivery;
- she had spoken by phone to Creation Cards in February 2012, and had been told she would have to pay a full monthly payment of £38. However it had continued to collect a monthly payment of £35;
- in a later phone call to Creation Cards, the staff member said it had no knowledge of an arrangement to pay £38;
- she did not understand why her interest rate had increased, and whether she was now making a full payment or not; and
- Creation Cards told her one thing and then did something else.

my provisional decision

I issued a provisional decision on this complaint to Ms D and to Creation Cards on 20 August 2013. In it, I said that where the evidence was inconclusive or contradictory (as some of it was here), I reached my decision on the balance of probabilities - that is what I considered was most likely to have happened, given the available evidence and wider surrounding circumstances.

On balance, I concluded that Ms D did complete and return the first financial statement Creation Cards sent her in January 2012, and that this was received by Creation Cards. I said this, because she had produced:

- a certificate of posting issued by the Post Office on 30 January 2012; and
- two letters from Creation Cards, dated 10 and 14 February respectively, which both said the information she had provided confirmed her ability to meet her contractual monthly payment.

However, it seemed the form was then misplaced by Creation Cards, and there was confusion in what Ms D was told by its staff. She did not understand why her interest rate was being increased when her circumstances were unchanged, or the basis on which her monthly payment was being treated by Creation Cards. She did not see any point in sending a further financial statement, when the one she had already sent was being ignored.

The repayment arrangement Creation Cards had agreed with Ms D was a concessionary arrangement. I agreed that it was entitled to review this from time to time in the light of Ms D's financial circumstances at the time. This might mean that the interest rate it was charging would increase, so long as it continued to treat her positively and sympathetically.

The adjudicator had sent Creation Cards a copy of the financial statement which Ms D sent it in January 2012, and asked it whether, if the business had considered this statement at the end of January 2012, it would have agreed a new payment arrangement, and if so on what terms. It responded as follows:

"We are always prepared to consider income and expenditure statements and the terms of any repayment plan we offer is determined by the details provided. Unless the customer's financial situation had [changed] significantly, the terms would be very similar if not the same as the previous repayment plan."

It appeared that Ms D's financial situation had not changed since the previous arrangement was agreed. I therefore concluded that if Creation Cards had considered the financial statement Ms D sent it in January 2012, it is more likely than not that it would have renewed this for another twelve months, and would also have renewed it in January 2013 for a further twelve months from 1 February 2013.

Ms D had continued to make the same monthly payments of £35 as were required under the original arrangement. However, she had been charged a much greater rate of interest. Subject to any further representations by Ms D or Creation Cards, I concluded that Creation Cards should now reinstate the repayment arrangement which came to an end on 31 January 2012, with the same interest rate that applied under that arrangement, and that this new arrangement should run until 31 January 2014 before being reviewed. Creation Cards should also rewrite Ms D's account to reflect the interest that had been overcharged.

Finally, it should pay her £100 compensation for the distress and inconvenience she had suffered.

Ms D responded to say that she accepted my provisional decision. Creation Cards said that it had nothing further to add.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. As neither Ms D nor Creation Cards has provided any fresh information or evidence in response to my provisional decision, I find no basis to depart from my earlier conclusions.

my final decision

My decision is that I uphold this complaint. In full and final settlement of it, I order Creation Financial Services Limited (trading as Creation Cards) to:

1. reinstate the repayment arrangement which came to an end on 31 January 2012, with the same interest rate that applied under that arrangement, so that this new arrangement runs from 1 February 2012 until 31 January 2014 before being reviewed;
2. rewrite Ms D's credit card account from January 2012 onwards to reflect that interest has been overcharged to the account; and credit Ms D's credit card account with a further £100 as compensation for the distress and inconvenience she has suffered.

Lennox Towers
ombudsman