

complaint

Mrs D complains that Creation Financial Services Limited has not been positive and sympathetic to her while she has been in financial difficulties.

background

The adjudicator recommended that the complaint should be upheld. Mrs D's financial difficulties began in 2007 when she entered a debt management plan. Despite not using the accounts and maintaining regular reduced payments for the last six years, the debt on her three Creation accounts has increased due to interest and charges. Our adjudicator did not consider this was a positive and sympathetic approach. She recommended it refund all interest applied to Mrs D's accounts since 2007 and pay £100 compensation for the distress and inconvenience caused.

Creation disagrees; it has offered to reduce interest to 0% for 12 months, refund six months' interest and pay £150 compensation.

After considering all the evidence, I issued a provisional decision on this complaint to Mrs D and to Creation on 14 February 2014. Subject to any further representations by Mrs D or Creation, my provisional decision was that Creation Financial Services Limited should:

- arrange to amend the information it has recorded on Mrs D's credit file to show her account as defaulted six months after she failed to meet the contractual repayments;
- refund all interest and charges incurred since 2007;
- suspend further interest and charges, subject to any change in Mrs D's future financial position; and
- pay Mrs D £250 compensation for distress and inconvenience caused by not responding positively and sympathetically to her financial difficulty.

In response, both parties accepted the provisional decision.

my findings

To decide what is fair and reasonable in this complaint, I have considered everything that Mrs D and Creation have provided.

Creation is under no obligation to agree a repayment plan or reduce interest and charges for customers in financial difficulty. However, I would expect it to be positive and sympathetic with Mrs D in assisting her to address her financial situation and I consider it has not been.

I am satisfied Mrs D has made a genuine attempt to address her debt since her difficulties began in 2007 and understand her frustration at her debts with Creation being higher now than they were originally.

It is not in dispute that Mrs D is unable to make the repayments required under the original agreements. On the basis of the evidence provided, I am satisfied she is making reduced repayments under an informal arrangement since 2007.

Under the Data Protection Act 1998, Creation is obliged to ensure the information it reports on Mrs D's accounts is processed fairly and accurately. Additionally, the Information Commissioner's Office generally considers six months as a guide for informal arrangements.

I consider there is sufficient evidence in this case to conclude that the accounts were in default much earlier and should have been defaulted when Mrs D failed to make the original contractual payments for six months. So I think the reasonable thing for Creation to do here is to put Mrs D in that position, both in terms of her debt and the information it has recorded on her credit file.

For clarity, in defaulting the account – backdated to 2007 – Creation should refund interest and charges incurred since that date. It should also suspend further interest and charges, subject to any change in Mrs D's future financial position.

my final decision

My decision is that Creation Financial Services Limited should:

- arrange to amend the information it has recorded on Mrs D's credit file to show her account as defaulted six months after she failed to meet the contractual repayments;
- refund all interest and charges incurred since 2007;
- suspend further interest and charges, subject to any change in Mrs D's future financial position.
- pay Mrs D £250 compensation for distress and inconvenience caused by not responding positively and sympathetically to her financial difficulty.

Andrew McQueen
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