

## **complaint**

Miss L has complained that Studio Retail Limited failed to make reasonable adjustments for her when she contacted them due to not being able to make an upcoming payment.

## **background**

Miss L has a medical condition and as part of that condition she finds it difficult to speak to unfamiliar people over the phone.

In March 2019, a few days before her payment was due, Miss L contacted Studio via an online messaging service to let them know she wouldn't be able to make an upcoming payment due to an unexpected bill. Studio replied a few days later to say she had to call the credit services department. Miss L told Studio about her medical condition and why she was unable to call.

Miss L couldn't get clarification on her missed payment despite numerous emails sent to Studio – she was also incorrectly told she was in arrears when the payment hadn't even fallen due. She says this caused her distress and aggravated her medical condition because she was unable to get a satisfactory resolution, so she raised a complaint with Studio.

Studio considered the complaint and acknowledged that they provided some incorrect information on the arrears but said they had responded appropriately to the enquiry and within their timescales. They said the matter had been passed to the relevant department and agreed to a short-term payment plan, as well as, placing the account on a 30-day hold.

Studio said they upheld the complaint and apologised for the disappointment caused.

Miss L didn't agree with the response and referred the complaint to our service. She said although Studio was prepared to place her in a special (Apollo) group they failed to make reasonable adjustments needed for her condition and wants Studio to take responsibility for discriminating against her.

Our investigator looked into the case. He concluded Studio's treatment of Miss L had caused her significant distress and had aggravated her medical condition. He also said that Studio still hadn't improved or tailored their contact with Miss L and it was hard to see what difference referring Miss L to a specific department made. He recommended Studio pay Miss L £150 in compensation for the inconvenience caused to her. Miss L disagreed with his view. She said the investigator hadn't properly considered her medical condition or taken into account the lack of reasonable adjustments made by Studio and the affect these had on her.

Our investigator considered the additional points and information provided by Miss L – he also asked Studio for further information. Studio confirmed Miss L's account had been put on 'long term pending' status but said nobody had advised Miss L – they also confirmed no payment plan was in place as previously suggested. After reviewing the new information, the investigator still felt the complaint should be upheld but he thought the compensation should be increased to a total of £700.

Studio disagreed and felt the compensation was too high but offered to pay Miss L £300 – they accepted they could have helped Miss L a little more but felt they had done enough to

accommodate her. Miss L still didn't think the compensation was sufficient and felt a higher award would be a fair amount considering other awards that had been made by the service.

The complaint was then passed to me for a decision.

#### my provisional decision

In my provisional decision I said I thought Studio should have done more and didn't act fairly and reasonably in this case. I felt an award of £500 was more reasonable to resolve the complaint in the circumstances of this case. I have summarised my arguments from my provisional decision below.

Miss L said she couldn't use the normal phone service with the credit services department because of her medical condition. I have no doubt this is frustrating for her and I understand why she feels she was put to a substantial disadvantage by Studio because of her medical condition. She says she asked Studio to contact her in a different way.

Miss L was managing her account well prior to the initial contact in March 2019 and from the information provided she is now also up to date with the account. So, I appreciate how this would have been distressing and why it's likely to have had an impact on her medical condition.

Although Studio agreed to make a compensation award of £300, they've maintained they assisted Miss L reasonably. And it didn't consider that a higher compensation payment was warranted in this case. In a recent response Studio suggested the steps they took were appropriate to accommodate Miss L's medical condition. Studio said whilst they are sorry Miss L has a medical condition, any exasperation of her medical condition was due to the condition itself and not their actions.

But I didn't agree because Miss L's query was left unresolved in circumstances where Studio could've done more sooner to help her and where I thought, it was reasonable for her to have expected to receive more help. I completely understood why she felt she was treated unfairly; and why this left her feeling humiliated and anxious.

I said Studio were aware of Miss L's medical condition from late March 2019 and although they said they have moved her to a special (Apollo) group I couldn't see that this had made a difference to her situation or helped with updates that Studio should have provided to her. Studio hadn't clearly communicated with Miss L throughout the complaint – at times they said she was in arrears when she wasn't and then told us there was a payment plan in place for her account which wasn't the case.

Studio admitted Miss L was provided very little information on the management of her account or arrears until August 2019 – they said her account was put on long-term hold but without notifying her of any of the implications. It seems the only real steps taken to rectify the issues were done once the complaint had been raised with our service.

Miss L didn't think the level of compensation recommended by the investigator was enough and felt the investigator hadn't considered the impact on her medical condition sufficiently. She provided us with some information in relation to her medical condition and although this showed how her medical condition affects her, it didn't show what particular impact the poor service Studio provided had on her condition.

Miss L has detailed the poor service she said Studio gave her. I therefore needed to decide what would be a fair and reasonable way of putting things right in this particular complaint. I'd thought about the impact of what Studio did wrong here had on Miss L, and what she's told us about this. And I was satisfied Studio caused her considerable inconvenience and distress. So taking all of this into account, I thought it would be fair that Studio pay Miss L £500 – inclusive of the £300 offered by them for the distress and inconvenience caused by its poor service.

Studio didn't provide any further information in response to my provisional decision.

Miss L responded to my provisional decision and provided more information and evidence about the complaint. She raised the following:

- We haven't understood the impact of Studio's actions on her medical condition
- The compensation offered had not been arrived at fairly by taking into account the effects on her
- The medical evidence provided was not fully considered
- Studio didn't clear the arrears they only removed the interest/charges that were added to the account
- We didn't consider the phone call made to her home phone number and that Miss L's phone was still being called by Studio
- We hadn't considered the many other times, other than in this complaint, when Studio had discriminated against her
- Studio didn't react promptly to stop and assist Miss L when her account was hacked recently

### **my findings**

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint – including everything Miss L has provided in response to my provisional decision. And, I've thought about all the information on the case again.

Before I explain why, I acknowledge that Miss L has raised a number of points which I've considered in full. But I've limited my decision to what I consider to be most relevant in this complaint. Having done so, I still think this complaint should be upheld, for the reasons explained in my provisional decision and summarised above.

Our role is to decide what's fair and reasonable in all the circumstances. In order to decide that, we have to take a number of things into account including relevant law and what we consider having been good industry practice at the time. So although it's for the Courts to say whether or not Studio has acted unlawfully by breaching the Equality Act 2010, we're required to take the Equality Act 2010 into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

Miss L has complained that Studio has failed to make reasonable adjustments for her. In other words, has failed in their duty to make reasonable adjustments under the Equality Act 2010. I've taken the Equality Act 2010 into account – given that it's relevant law. From what Miss L has told us – which is supported by medical evidence – I think it's likely a court would find that her medical condition does amount to a disability as defined by the Equality Act 2010. But I've ultimately decided this complaint based on what's fair and reasonable. If Miss

L wants a decision that Studio has breached the Equality Act 2010, then she'll need to go to Court.

Studio has accepted that it provided Miss L with poor customer service. Miss L doesn't see it that way. She believes that what Studio has done goes beyond poor customer service. She's felt discriminated against. I can understand why Miss L feels this way, and I do think Studio hasn't quite grasped how its actions have made Miss L feel. So I do think Studio should do more than it has currently offered to do. I say this because Studio failed to adjust the way they communicated with Miss L throughout the process and often didn't update her with the information that would have been useful for her. I don't think that was fair and reasonable.

Miss L also said Studio didn't clear the arrears and only cleared the charges. Studio said her account was placed on 'breathing space' where interest and late fees were suspended. Studio said to prevent any further detriment to her credit file they had cleared the arrears on her account and I can see a balance adjustment of £50.39 was made on 7 August 2019 – but this states the adjustment was in relation to the interest and charges. While I don't think Studio cleared the arrears, I don't think this is something I'd reasonably expect them to do, as the arrears are Miss L's to clear – which she has done. What I'd expect them to do is remove any interest/charges in relation to the payment which it looks like they have done.

In my provisional decision I recommended Studio should pay Miss L £500 for the considerable distress and inconvenience caused. Miss L replied and she felt I hadn't considered the impact of Studio's actions on her medical condition and so I hadn't fairly arrived at the compensation offered. I thank Miss L for providing the additional information on the medical condition and the information she'd previously provided from her doctor.

I'd like to reassure Miss L that I don't doubt what she says about her medical condition and the impact it has on her. She also told us her condition was getting better prior to this incident. I accept that the poor service she received from Studio is likely to have detrimentally impacted her condition.

The problems on the account started in March 2019 and it took until August 2019 for there to be meaningful progress. Miss L has provided us with information to show us the medical condition she suffered and that she contacted her doctor in October 2019 due to a flare up. But I don't have the medical evidence to support that what Studio did wrong here caused the flare up in the condition or that her condition significantly deteriorated because of the way Studio treated her, although I accept it's unlikely to have helped.

So, considering all the information I have I think a fair amount of compensation in the case would be for Studio to pay the additional £500 I suggested in my provisional decision. As I've mentioned Studio would have known about Miss L's medical condition and should have acted sooner to help her but they took over five months to do so. It's likely this delay would have had a detrimental impact on her condition and Studio should have been aware of this.

Miss L has also raised a number of new points, such as more recent phone calls and the hacking of her account but these seem to have occurred after she referred this complaint to our service so I haven't looked into those issues. She will need to first raise these concerns with Studio if she hasn't done so already, before we're able to investigate those issues.

**my final decision**

My final decision is that I uphold this complaint. I instruct Studio Retail Limited trading as Studio to pay Miss L £500 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 20 November 2020.

Jag Dhuphar  
**ombudsman**