

## **complaint**

Miss G complains that Creation Financial Services Limited applied interest and charges to her account since 2009, even though she was trying to pay it off under a debt management plan.

## **background**

When Miss G first set up the plan, in October 2009, she owed about £430. By October 2012, despite making regular monthly payments under the plan, because of interest and charges she owed nearly £600.

The adjudicator recommended that the complaint was upheld. She said that, when Creation had accepted that Miss G had financial difficulties, it had not done what could reasonably be expected to allow her to clear the largest possible amount from the balance. She recommended that Creation should reverse all interest and charges applied to the account since October 2009, should freeze the application of further interest and pay Miss G £75 for distress and inconvenience.

Creation did not agree. It said that under the Lending Code it was not under any obligation to refund or suspend charges, even when a customer was experiencing financial difficulties. Nor was it obliged to freeze interest while a payment plan is in place, or to accept a payment plan. As it had agreed to reduce interest and minimum monthly payments it considered it had done enough. Miss G had continued to make payments, so there was no evidence that she could not afford them.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I have looked through the payments into and out of the account since October 2009 in detail. At first payments were covering all the interest and reducing the debt very slowly. Then it appears that in December 2010, Creation started charging more interest and one payment was late, resulting in default fees. A lower level of repayments then began. But that was not enough to cover even the interest and eventually in April 2011 Creation stopped charging interest. But by then the debt had risen to over £500. By February 2012 the debt had reduced again to about £480 and Miss G started making lower repayments, but in April 2012 Creation started charging interest again, which was far higher than the repayments. Fees began to be charged and the debt increased to nearly £600. The interest rate was then reduced again in August 2012 and Miss G began making slightly higher payments: but what she could pay was still only reducing the debt by just over 30 pence a month.

After three years of making almost faultlessly regular payments under a debt management plan, Miss G owed over £150 more than at the start, because of interest and charges. Even if Creation did not increase the interest rate again, unless Miss G's financial situation improves and she is able to offer higher payments, because of the current interest charges, it would take about 40 years to pay off the debt at the rate of progress in October 2012.

While there is no general requirement to freeze interest or suspend charges when a consumer has financial difficulties, the Lending Code does require that organisations deal with cases of financial difficulty positively and sympathetically. I cannot see that an approach

which results in the effects I have described above can be regarded as positive and sympathetic.

I agree with the adjudicator that action needs to be taken both to put matters right regarding the debt and to compensate Miss G in respect of the distress and inconvenience over a long period in a difficult situation. I consider that a slightly higher sum (£100 rather than £75) is due in that regard.

**my final decision**

My decision is that I uphold this complaint. In full and final settlement I order Creation Financial Services Ltd to:

- refund to Miss G all interest and charges on the account from October 2009 to date of settlement;
- freeze the application of interest to the account while Miss G continues to make regular payments under a debt management plan;
- pay Miss G £100 in compensation in respect of the distress and inconvenience caused by the way matters have been dealt with.

Hilary Bainbridge  
**ombudsman**