

complaint

Miss K complains that NRAM plc unfairly refused to correct her files with the credit reference agencies. Miss K is represented by her father, Mr J.

background

Miss K took out a joint "Together" mortgage (which is a mortgage and an unsecured loan) with her partner in 2006. They split up soon after and Miss K moved out. In 2008 Miss K gave NRAM her new address and asked it to remove her from the mortgage and loan accounts, which NRAM declined. Miss K says she believed her ex partner was making the mortgage payments but he had financial difficulties and the mortgage and loan accounts fell into arrears.

Miss K says NRAM did not notify her before it issued legal proceedings, despite having her address. After being refused credit, Miss K checked her credit files and found that NRAM had recorded a default and county court judgement on her credit files in mid 2009.

Miss K tried to agree a payment arrangement with NRAM. This was unsuccessful and in late 2010 NRAM took possession of the property, which was sold in January 2011 leaving a shortfall. In early 2012 Miss K agreed a settlement for the debt with NRAM. She applied for a certificate of satisfaction/cancellation of a judgement debt which was issued in August 2012.

Miss K says:

- NRAM should remove the defaults from her credit files as it did not inform her of the arrears or give her an opportunity to resolve the situation.
- NRAM acted unfairly when it recorded a default on her credit files some time after the county court judgement in mid 2009.
- If it can't remove the defaults, NRAM should amend her credit files to show the debt was settled in January 2011 (when the property was sold) or in April 2012 (when the part payment to settle the debt was made).
- NRAM did not respond properly to her complaint and said on a phone call it would not respond to her complaint.

The adjudicator recommended that the complaint should be upheld in part. He said:

- NRAM did not respond properly to Miss K's complaint. It should have corrected her credit files when she first complained in late 2013. Not doing so caused her trouble and upset.
- There was insufficient evidence NRAM said it would not respond to Miss K's complaint in late 2013. There was also insufficient evidence Miss K had sent a copy of the certificate of satisfaction or cancellation of a judgement debt prior to September 2013.
- Miss K's credit file had now been updated to show the debt as satisfied as at the date of the certificate of satisfaction/cancellation of a judgement debt (August 2012). The adjudicator recommended NRAM should also apologise and pay compensation of £250.

Miss K did not agree. On her behalf, Mr J said £250 was not sufficient compensation for the trouble and distress caused. They had been forced to incur legal fees as NRAM had not responded to their emails. Miss K had managed her financial affairs carefully and the problems here were caused by NRAM's failure to communicate with her. Had she been aware of the arrears, they would have been able to resolve the problem without it affecting her credit rating, by selling the property sooner or agreeing a settlement.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

removing the defaults from Miss K's credit files

Miss K has explained why she feels NRAM should remove the defaults from her credit files. I understand how important her credit file is and I have considered her reasons carefully.

- Miss K was not aware of the arrears

By the end of 2008, there were arrears on the mortgage and loan account. NRAM had issued formal demands and started court proceedings for possession of the property.

During 2008 NRAM wrote to Miss K and her ex partner at the address on its file. While NRAM was aware that Miss K had moved out, it did not have her new address. So I do not consider it made an error in writing to her at the address on its files. Miss K informed NRAM of her new address in early December 2008.

NRAM's records show there were a number of phone calls with Miss K during 2008 where the arrears were discussed. I am satisfied Miss K was aware of the arrears from early 2008 and that NRAM told her in June 2008 it had issued formal demands and started court proceedings. I am also satisfied that NRAM told Miss K in April 2008 it would not remove her name from the mortgage. It confirmed this again in a letter to her at her new address in December 2008.

- Miss K was not given an opportunity to resolve the situation

I am not persuaded Miss K put forward proposals to deal with the arrears when she became aware of them in 2008. There were discussions between Miss K and NRAM in 2010 with the aim of agreeing a settlement for the debt. While it was not possible to reach agreement, I am not persuaded NRAM refused to consider Miss K's proposals or acted unreasonably at this time.

Overall, I am satisfied that Miss K was aware of the arrears and that she was jointly responsible for the mortgage. NRAM has a duty to provide accurate information to the credit reference agencies. I am not persuaded it would be fair and reasonable to require NRAM to remove the defaults from Miss K's credit files.

the dates of the defaults on Miss K's credit files

Due to the nature of the "Together" mortgage – having secured and unsecured parts – different legal processes were followed to recover the debt. This resulted in different dates being recorded on Miss K's credit files.

Miss K says the default for the secured debt should be recorded at the same date as the default for the unsecured debt (December 2009). NRAM says the default on Miss K's file in respect of the secured debt should be recorded as the date it took possession of the property – that is November 2010.

While I understand that Miss K would like the default for the secured debt to be recorded at the earlier date, I do not consider the date used by NRAM – the date the property was repossessed – to be incorrect.

Miss K says her credit file should show her debt as satisfied in January 2011 (when the property was sold) or in April 2012 (when the part payment to settle the debt was made). I am not persuaded this is correct. Miss K agreed a settlement with NRAM where she paid part of the debt and it agreed not to pursue her for the remainder. NRAM agreed to inform the credit reference agencies the debt was *partially settled*.

The certificate of satisfaction or cancellation of judgement debt relates to the county court judgement against Miss K in June 2009. NRAM accepts it made errors in the process to obtain the judgement, and the judgement was set aside. This does not mean NRAM cannot take steps to recover the debt or record a payment default. It does not mean that the debt itself is fully satisfied.

I do not find it would be fair and reasonable to require NRAM to change the information it has reported to the credit reference agencies.

response to Miss K's complaint

NRAM accepts it did not respond properly to Miss K's complaint. It did not respond to her first letter and did not take the certificate of satisfaction or cancellation of a judgement debt into account when responding to her complaint.

compensation

NRAM made errors here. It did not notify Miss K before applying for a county court judgement against her – even though it had her address in its files. It did not provide an appropriate response to her complaint. NRAM has offered compensation of £250 which Miss K says is not sufficient for her legal costs, time and distress.

While I have no doubt this has been very worrying for Miss K, having considered the circumstances I am not persuaded it would be fair and reasonable to require NRAM to pay additional compensation. I say this because:

- I would not usually make an award for legal costs. This service provides an informal way for disputes between customers and banks to be resolved.
- I am satisfied that Miss K was aware of the arrears and that NRAM was taking steps to recover the debt.

- NRAM agreed a partial settlement of the outstanding debt and agreed not to pursue Miss K for the remainder – about £20,000.

I consider £250 compensation is fair and reasonable in the circumstances.

my final decision

My decision is that I uphold this complaint. In settlement of it, I order NRAM plc to pay compensation of £250 to Miss K.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss K to accept or reject my decision before 6 February 2015.

Ruth Stevenson
ombudsman