

complaint

Miss H is unhappy that Creation Financial Services Limited (Creation) didn't register defaults against her accounts in 2011.

background

Miss H was maintaining minimum payments to her Creation accounts, although the account balances were increasing. But in February 2011 she missed a payment. She then arranged a payment plan with Creation, and Creation reduced the amount of interest Miss H was being charged. Miss H remained on payment arrangements, albeit she missed a few payments, until Creation transferred her account to a debt collection agency in 2016.

Miss H is unhappy that Creation didn't register a default against her accounts, even though she was in financial difficulties. Miss H is also unhappy about the sale of her accounts to the debt collection agency. But this is being dealt with under a different complaint reference number. So I won't consider this as part of my decision.

Our investigator found Creation had acted reasonably. He said that, because Miss H was maintaining payments up to February 2011, Creation would've had no cause for concern about her ability to service her debt. But once Miss H missed payments, Creation arranged payments plans for her. When Miss H missed a payment on a payment plan, this was followed by a discussion about affordability and a revised payment plan.

The investigator thought this was reasonable, and he didn't think Creation should've registered a default – the guidance issued by the Information Commissioner's Office (ICO) said defaults shouldn't be registered if payment plans are jointly agreed and kept to, which generally was the case. So he didn't think Creation needed to do anything more.

Miss H didn't agree with the investigator. She's said she hasn't paid anything to Creation since May 2018, her accounts have not been repaid, and she doesn't have a payment arrangement in place; Creation wouldn't let her arrange one because of her personal circumstances – she wasn't working at the time. She's also said that the arrangement she had in place immediately before she stopped paying had become unaffordable.

Miss H says she always believed Creation had defaulted her accounts, because they weren't updating her credit reference file with payments made; and that all her other creditors had defaulted her accounts even though she was on repayment plans. She's said the ICO rules state Creation should've informed her they weren't defaulting her, and they didn't do this.

Miss H says the second part of her complaint hasn't been addressed – Creation stopped reporting the conduct of her accounts in February 2016, just before they were sold to the debt collection agency, and they haven't been reported any *"payments, defaults arrears or otherwise"* since Creation took the accounts back in June 2017. She doesn't think it's fair that Creation can *"pick and choose when and what they report for however long I have these balances outstanding."*

Miss H says the ongoing situation with Creation is very stressful and is having an effect on her health. She's like this to be considered by the ombudsman as part of the final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same overall conclusions as the investigator, and for broadly the same reasons.

Miss H was in financial difficulties that resulted in her missing a payment in February 2011. But I wouldn't expect any financial institution to register a default just because a single payment was missed, and a payment arrangement agreed. There's usually a trigger point before the process of registering a default can be started, and I'd expect this to be in the region of three to six months payments missed. As Miss H had only missed one payment in 2011, it would've been unreasonable for Creation to register a default at this stage, and I wouldn't expect them to have done this.

And I wouldn't expect Creation to register a default if Miss H had a payment arrangement in place. This is also the case if she couldn't keep to an existing arrangement, missed a payment, and needed to make a new arrangement. So I can't say Creation did anything wrong by not registering a default while Miss H was (generally) keeping up to date with payment arrangements.

I've seen Creation sent Miss H a Notice of Default in September 2014. This asked her to make a payment to bring her account back in line with the agreement otherwise a default may be registered. I've also seen that Miss H started a new payment arrangement with Creation in September 2014. So it was reasonable that Creation didn't register a default at this time.

Miss H has supplied copied for her credit files, from two different providers, which are dated January 2020. These don't show any entries for Creation at all – either before the accounts were sold to the debt collection agency or after. I can't say why this is, and it could be that defaults were issued more than six years ago, and the accounts have now 'dropped off' the files. But this is unlikely given the other evidence I've seen.

And I agree with Miss H that if Creation aren't, and haven't been, reporting these accounts to the credit reference agencies, it'd be unfair for them to start to do this now. So I wouldn't expect them to start to report these accounts in the future. But I would expect them to work with Miss H to arrange a payment plan that's both affordable and clears the outstanding balances in a reasonable amount of time. If, as has been the case, Miss H had little or no income, I would expect any payment plan to reflect this. But it wouldn't stop Miss H paying additional payments on an 'as and when' basis, if she felt she was able to.

my final decision

For the reasons explained above I don't uphold Miss H's complaint about Creation Financial Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 27 February 2020.

Andrew Burford
ombudsman