

## **complaint**

Mrs K complains that Creation Consumer Finance Ltd has not acted positively and sympathetically towards her, after she experienced financial difficulties in repaying her debt. Mrs K complains that Creation has continued to add significant interest and charges to her account and she is unable to reduce her debt.

## **background**

Mrs K began to experience financial difficulties in 2007 and her account with Creation went into arrears. Mrs K missed a number of payments and Mrs K asked a debt counselling service for help. A repayment plan was agreed in early 2009, at a modest amount per month and Creation reduced the interest rate.

Mrs K's financial difficulties were continuing and she maintained the agreed payments. But, she was not reducing her debt, because of the interest and charges being added. A number of repayment plans have been agreed however the debt is now much higher and Mrs K is not reducing the outstanding balance.

The adjudicator recommended that the complaint should be upheld. She considered that Creation had not acted positively or sympathetically towards Mrs K and had not taken sufficient practical steps to help Mrs K manage her debt. She considered that the level of interest and charges added to the account meant that the debt was never going to be reduced and Mrs K would have to pay back much more than the amount that she initially fell into arrears with.

She recommended that Creation refund all interest and charges applied to the account since November 2007, and freeze all further interest charges. The adjudicator considered that Creation had hindered Mrs K's ability to manage her debt and had added to her distress and recommended that Creation pay Mrs K £100 in recognition of this distress.

Creation did not agree with the adjudicator's conclusions and responded to say, in summary, that it had acted positively and sympathetically by agreeing a repayment plan to reduce the monthly payments and applying a reduced interest rate. It offered to refund all the charges and put Mrs K on a 0% interest rate for the next year and pay £50 for any distress caused.

## **my findings**

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

When Mrs K first experienced financial difficulties in May 2007 she missed a number of repayments on her account and was using the card for cash transactions. In my view it is clear from looking at the account that Mrs K was in financial difficulties. I consider that it was reasonable to expect Creation to contact Mrs K about this and the reason for the missed payments. I agree with the adjudicator that by November 2007 it should have been clear to Creation that Mrs K was in difficulties. A repayment plan was not arranged until February 2009. Creation was aware that Mrs K was in financial difficulties and should have done more to assist her.

Mrs K is experiencing long term financial difficulties. It should have been apparent to Creation that this was not a temporary problem given the information provided to it by Mrs K.

Creation has continued to add interest and charges to the account, at an amount which effectively increases the debt. Despite making the agreed monthly repayments, Mrs K has not reduced her debt in the last four years. I consider that Creation has not treated Mrs K positively and sympathetically and the steps it has taken have not helped Mrs K manage her debt.

No default has been registered despite the fact that Creation has issued default letters and charges and Mrs K is in default. Had the account been defaulted all interest and charges would have been frozen which would have been of benefit to Mrs K. If Creation decides it is appropriate to default the account then the effective date of the default should be recorded as 1 November 2007 to reflect the position.

I consider that this has added to the problems faced by Mrs K and in recognition of this I consider that an award of £100 compensation is fair and reasonable for the distress caused.

### **My final decision**

My final decision is that I uphold this complaint. In full and final settlement of it, I order Creation Consumer Finance Ltd to do the following:

1. Refund all interest and charges added to the account since 1 November 2007.
2. Freeze all further interest and charges on the account.
3. Agree an affordable repayment plan, until the outstanding balance is cleared.
4. If Creation considers it appropriate to default the account the default should be recorded as having taken place on 1 November 2007.
5. Pay Mrs K £100 compensation.

Emma Boothroyd  
**ombudsman**