

complaint

Miss J complains via her professional representative that Paragon Finance PLC, trading as Idem Servicing (Idem) have incorrectly reported late payment markers to her credit file.

Background

Miss J had a credit card account with her bank. Miss J's circumstances changed, and she began to struggle with her debt. She made an agreement with the bank to pay £55 a month due to there being evidence of financial difficulties. The bank had also frozen the interest on the account whilst Miss J made monthly payments to reduce the debt. In 2012 the account was sold to Idem. From then on, Miss J continued to pay her agreed monthly payments to Idem.

Between 2017 and 2018 Miss J missed 11 payments on the account.

In early 2018 Miss J completed an income and expenditure form with her professional representative. The representative spoke to Idem and informed them that Miss J could only afford to make reduced repayments to the debt. So, Miss J started paying a reduced repayment each month. Idem reviewed the income and expenditure form and agreed to accept the reduced repayments for 15 months.

Idem continued to report the account to the credit reference agencies.

In 2019 Miss J's professional representative complained on her behalf to Idem. They said that Miss J had only ever made an agreement with Idem to make the reduced repayments. So, they felt her credit file shouldn't show as having late payments.

In response Idem said that Miss J had missed repayments between 2017 and 2018 so, her account was still in arrears. It said it had been reporting the account correctly to the credit reference agencies.

Miss J was unhappy with Idem's response and so brought the complaint to us. Our investigator was satisfied that Idem had been accurately reporting Miss J's account to the credit reference agencies. And, that Idem had acted fairly when Miss J started to miss payments on her account.

Miss J remained unhappy as she said she didn't make the payments in 2017 as she had disputed liability for the debt under s78 Consumer Credit Act (CCA). And, that the only repayment agreement she had ever made with Idem was the agreement to make reduced repayments. So, the matter has been passed onto me for a 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.

Miss J's original lender didn't default the account but in this situation a default would have made sense. It was clear Miss J was unable to repay the debt, agreeing to monthly repayments which were likely to be lower than the credit cards minimum payments. But because the original lender didn't default the account, it makes it less straight forward.

Idem purchased the account from the original lender so they were the owner of the debt and weren't working as a debt collector. When the debt was sold to Idem, Miss J was bound by the same contractual repayment arrangements she made with the original lender. And Miss J had made these arrangements with the original lender after there was evidence of financial difficulties. But Miss J kept up these payments for several years and didn't show Idem any signs of further difficulties until 2017.

Miss J's representatives have said that Miss J didn't make her repayments in 2017 as she had disputed the debt under s78 CCA and so the account wasn't enforceable.

However, from Idem's file I have seen that a s78 CCA dispute was raised in November 2016. Idem have said that whilst the debt was disputed, they made the debt unenforceable. But the debt still existed and at no point did they tell Miss J to stop payments. I can also see from the file that Idem were able to comply with their obligations under the CCA in December 2016 by sending Miss J a copy of her original credit agreement and account history. In that letter Idem made it clear that the debt had again become enforceable. So, even if the debt was disputed in 2017 when Miss J stopped making payments – which I don't think it was – I haven't seen any evidence that Idem told Miss J to stop making payments towards her debt.

Between 2017 and 2018 when Miss J missed 11 monthly payments to Idem. It regularly wrote to Miss J to inform her that arrears were being recorded on the account and asked her to make repayments. Idem also sent Miss J an income and expenditure form to complete which wasn't returned. So, I think Idem were reasonable in informing Miss J of the arrears and trying to get her to contact them.

Idem reported the arrears on Miss J's account to the credit reference agencies. The information commissioner's office (ICO) provides guidance to businesses about the information that they must send to credit reference agencies. The ICO say that the data reported on credit files must be fair, accurate, consistent, complete and up to date. So, I have considered if this is true in Miss J's case.

I have seen a report from one of the main credit reference agencies which shows reporting of each of Miss J's missed payments and the status code increasing by one each month to a score of six after six months (the maximum number of months that can be reported).

Although Miss J started making reduced repayments to Idem in 2018, she was paying less than her contractual monthly payment – her agreement with the original lender. This meant that the arrears recorded on the account were still increasing.

I understand why Miss J is confused that the account markers show as "late payments" and is concerned because she says her (reduced) payments are made every month on time. However, I want to reassure her that "late payment" is just another term for "arrears". It doesn't mean that an individual month's payment was made late, just that the account overall is always being paid late - as there's arrears on it. A payment will not show as being made "on time" if there are such significant outstanding amounts from previous months still owing.

Therefore, the information sent to the credit reference agencies by Idem is reflecting that the account is over six months in arrears. I know this will disappoint Miss J but as this is a true reflection of her account, I can't say that Idem have done anything wrong.

Miss J has agreed with Idem a suitable repayment plan, considering her income and expenditure. Idem have also said that it will look to stop reporting Miss J's account to the credit reference agencies in March 2023 so that Miss J isn't any worse off than if it were to have defaulted her account in March 2017 when she stopped making payments. I think this is a fair solution by Idem to ensure Miss J isn't any worse off in the future.

In short, I think Idem have acted reasonably in the circumstances and haven't done anything significantly wrong. So, I'm not minded to ask Idem to do anything more.

my final decision

For the reasons I've given, my decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 26 April 2020.

Tim Wilkes
ombudsman