

complaint

Mrs U complains that, although she has been repaying a debt to Creation Financial Services Limited for several years under a debt management plan, the high rate of interest charged is making it impossible for her to clear the account.

background

In 2007 Mrs U told Creation that she had financial difficulties affecting her ability to pay off the debt on her store card, and made an arrangement to pay under a debt management plan. For a short period Creation then charged 0% interest on the account, but by early 2008 began charging 15% interest.

The adjudicator recommended that the complaint should be upheld. Between January 2009 and March 2013 Mrs U had paid Creation £250, but because of the interest the debt had only reduced by about £38, which she did not consider reasonable. It would take Mrs U over 35 years to pay off the debt at that rate. Creation should respond positively and sympathetically when a customer has financial difficulties. She considered that it would be fair and reasonable for Creation to remove all interest which had been applied to the account since March 2008 and, if any balance remained, Creation should stop any further interest being applied whilst Mrs U maintained her payments.

Creation did not agree. It said that the Lending Code did not put it under any obligation to refund or suspend charges. A business did not have to accept a repayment plan or freeze interest whilst one was in place. It was for the bank to decide how best to assist positively and sympathetically. It had already reduced the interest and the minimum monthly repayments. As Mrs U had continued making the repayments, there was no evidence that they were unaffordable.

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 appreciate that there is no specific obligation on Creation to freeze or refund interest when a customer is in financial difficulty. However Creation subscribes to the FLA Lending Code. Not only does that require that customers in financial difficulties are treated positively and sympathetically, but the most recent version also says more specifically that interest and charges will not continue to be taken if that would lead to the repayment period becoming excessive, taking into account the type of loan and your personal circumstances.

In this case, as the adjudicator noted, Mrs U has been making payments regularly for years under a debt management plan. But she cannot afford large repayments and it would take her more than 30 more years to pay off the debt (of a few hundred pounds) at the current rate - because most of what she is paying is taken up by interest charges. I cannot see that Creation has acted sufficiently positively and sympathetically regarding Mrs U's debt. In the particular circumstances here, I cannot see that it was reasonable for Creation to have continued charging interest in the way it has.

my final decision

My final decision is that I uphold this complaint. In full and final settlement I order

Creation Financial Services Limited to:

- recalculate the amount still owing on the account, on the basis of no interest being charged from March 2008 (when the interest rate went up to 15% after previously being reduced to 0%);
- continue to charge 0% interest on any remaining debt, so long as Mrs U's financial situation does not improve significantly and she maintains her regular payments.

Hilary Bainbridge
ombudsman