

complaint

Mr R complains that Creation Consumer Finance Limited cancelled his direct debit mandate for his payments under a fixed sum loan agreement and that it's recorded missed payments and a default on his credit file.

background

Mr R entered into a fixed sum loan agreement with Creation Consumer Finance in July 2015 to pay for some furniture. It was an interest free loan with no repayments until March 2016 and then 36 monthly repayments of £59.02 which were to be paid by direct debit. He switched banks and noticed in July 2017 that there were two direct debit mandates to Creation – one active and one inactive. Mr R gave notice to cancel the inactive mandate but the active mandate was cancelled so his repayments weren't collected.

Creation Consumer Finance tried to contact Mr R but he'd moved and not given it his new address. Six repayments were missed so it defaulted the account and sold the debt to a debt collection agency in January 2018. The missed payments and default were recorded on his credit file - but when he was contacted by the debt collection agency he cleared the debt.

He then complained to Creation Consumer Finance. It said that it had received a direct debit cancellation from Mr R's bank which it acted on and it attempted to contact him by letters and phone calls. Mr R wasn't satisfied with its response so complained to this service. He's also made a separate complaint about his bank.

The investigator recommended that this complaint should be upheld. He said that when Mr R switched banks in 2015 his bank sent Creation Consumer Finance details of his direct debit but Creation sent it back with a different reference (an additional letter) so two direct debits were set up. He said that Mr R reasonably cancelled the inactive mandate in July 2017 when he became aware of it but that the reference for it didn't match Creation Consumer Finance's reference and he said that it had a responsibility to check it with the bank. He recommended that Creation Consumer Finance should remove the default and the missed payments from Mr R's credit file but he didn't think that it needed to do anything else as it was Mr R's responsibility to ensure that he advised it of his change of address.

Mr R has accepted the investigator's recommendation but Creation Consumer Finance has asked for this complaint to be considered by an ombudsman. It says that it uses the bank account number and sort code to identify the cancelled mandate as the reference isn't always complete on the reports submitted and it wouldn't be possible to double check all the requests it receives on a daily basis. And it doesn't agree that checking with Mr R's bank was an option. It says that it tried to contact Mr R but he hadn't updated his personal details, as required by the terms agreed in the credit agreement.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr R became aware in July 2017 that there were two direct debit mandates to Creation Consumer Finance on his account – one active and one inactive. He gave notice to cancel the inactive mandate but the active mandate was cancelled. I've seen no evidence to show that Mr R intended to give – or gave – notice to cancel the active mandate. As a result of the

cancellation of the active mandate Mr R's monthly repayment to Creation Consumer Finance wasn't collected.

It then made reasonable efforts to contact Mr R by letters and by phone calls. But he'd moved and not given it his new address (as he was required to do by the terms of the agreement) and the phone number that it had for him wasn't correct. Six payments were missed and his account was defaulted and the debt sold to a debt collection agency. But in the circumstances that Mr R has described I can understand how he overlooked the need to tell Creation Consumer Finance about his new address. But if he'd done so he'd only have missed one payment and it wouldn't have defaulted his account or recorded adverse information on his credit file.

When Mr R was contacted by the debt collection agency in January 2018 he cleared the debt. I don't consider that Mr R cancelled the active mandate and I'm not persuaded that his failure to tell Creation Consumer Finance about his change of address justifies the adverse information that it's recorded on his credit file – and the consequences that have arisen from that.

So I find that it would be fair and reasonable in these circumstances for Creation Consumer Finance to remove the adverse information about the agreement that it's recorded on Mr R's credit file. But I'm not persuaded that it would be fair or reasonable for me to require it to take any other action in response to his complaint.

my final decision

For these reasons, my decision is that I uphold Mr R's complaint. And I order Creation Consumer Finance Limited to remove the adverse information about the fixed sum loan agreement that it's recorded on Mr R's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 10 February 2020.

Jarrold Hastings
ombudsman