

complaint

Mrs A isn't happy because Next Retail Limited has passed her account to a debt collector.

background

The background to this complaint is set out in my provisional decision. I've attached a copy and it forms part of my final decision. In summary I explained that I was intending to uphold part of Mrs A's complaint, and award £100 compensation, because I didn't think that Next had dealt with Mrs A's correspondence very well. I also thought they could've made it clearer to her that they weren't accepting cheques anymore when she entered into the repayment plan. I asked Next and Mrs A to let me know if they had anything else to add before I made a final decision.

Mrs A didn't add any further comments. Next responded and made some further points. In summary, they said they could have accepted a lower amount on the repayment plan if Mrs A had contacted them. And all cheques Next received before the account was passed to the debt collector were credited to Mrs A's account. They also explained that the debt was passed to an external debt collector because Mrs A hadn't stuck to the repayment plan.

So I now need to make 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.

The further points Next have made haven't changed my thoughts about the outcome of this complaint. I say that because:

- I think it's most likely Mrs A did let Next know that she wanted to make lower repayments while the plan was in place. I've provided Next with copies of correspondence which show that she put this in writing at least twice before the debt was passed over. Next doesn't have a copy of this correspondence but it seems most likely to me that it was sent. Mrs A kept copies of the letters she sent and the dates support her evidence that she was trying to contact Next about changing the repayment plan before it was passed to an external collector. The evidence I've seen indicates it's most likely the letters weren't logged and so her requests to change the repayments weren't actioned. So I still think that her correspondence wasn't dealt with properly;
- I appreciate that Mrs A was asked to phone but I don't think it was unreasonable for her to put the request in writing. For the reasons I've outlined in my provisional decision, and above, I think that the customer service Mrs A received in relation to the repayment plan caused her some distress and inconvenience. So I'm awarding Mrs A £100 compensation for that reason;
- My provisional findings explained why I didn't think Mrs A had experienced any further detriment by the account being passed to an external debt collector. So there's nothing else Next needs to do to put things right.

my final decision

I'm upholding Mrs A's complaint and directing Next Retail Limited to pay her £100 compensation. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 25 October 2018.

Anna Wilshaw
ombudsman

COPY PROVISIONAL DECISION

complaint

Mrs A isn't happy because Next Retail Limited has passed her account to a debt collector.

background

Mrs A has had her account with Next for over ten years. In June 2016 the direct debit was cancelled. Mrs A contacted Next a few months later to say that she'd done this by accident.

Mrs A says she tried to set up a new direct debit on several occasions and also made payments by cheque. Next returned the cheques and, despite having agreed a payment plan, have passed her account to an external debt collection agency.

Next says that they stopped accepting cheques a long time ago and that this would've been clear from information that appeared on statements. They said they agreed to enter a repayment plan but Mrs A didn't stick to it. So her account was passed to an external agency in line with their policies and procedures.

Our investigator didn't think Next had done anything wrong. She thought that Mrs A was aware of the debt and that she didn't stick to the repayment plan that was agreed. Mrs A didn't agree and provided copies of letters she'd sent to Next and cheques that had been returned. So I was asked to look at the complaint and make a decision.

I contacted Next to ask for more information as Mrs A's name was spelt incorrectly on some of correspondence Next sent her. I also asked for their thoughts about the copies of the letters and cheques she'd provided and information about the affordability of the repayment plan.

Next said that Mrs A's name had been changed at her request in 2008 and she'd responded to correspondence before her name was changed again in November 2016. They also explained that copies of correspondence were also sent to Mrs A's registered email address as well as by post. And they told us that there was no record of any correspondence received between November 2016 and March 2017.

I queried this with Next as their notes suggested that a cheque was received and processed by them in January 2017. I pointed out that Mrs A had referred to sending a letter in late December so the January cheque was consistent with what she'd told us. I asked Next to let me know whether it was possible for them to buy the debt back and whether Mrs A had suffered any financial detriment as a result of the debt being sold on but Next hasn't responded. So I'm intending to make a decision based on the information that's available.

my provisional findings

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

Next has a responsibility to let Mrs A know the status of her account, including when it's in arrears or in default. But it's up to Mrs A to manage her account including ensuring that her contact details are up to date and that payments are made. If Mrs A was experiencing financial difficulties I'd expect Next to act positively and sympathetically.

I'm not persuaded that Next has treated Mrs A fairly. I think that Mrs A was aware of the debt but I think she did try and contact Next about this and tried to make payments before her account was passed to an external debt collector:

- I think it's most likely that Mrs A was receiving correspondence by mail about her account. Mrs A's name was changed on the account in 2008 and remained the same until November 2016. But the address was correct and there was a relatively minor difference between the name that appeared on the correspondence and the correct spelling. I also note that Mrs A does appear to have responded to some of the letters, for example by phoning in to talk to Next about them, which suggests she was receiving letters from Next. In any event, copies were also sent to the registered email address. It appears that this was actually Mrs A's daughter's email address and not Mrs A's. But I don't think this is Next's fault as I think it's reasonable for them to rely on the contact information Mrs A provided;
- Mrs A says that she wasn't aware that Next didn't accept cheques any more. For the reasons I've outlined above I accept it's possible that she didn't know this. But I think it's most likely that the reason for her not knowing this is because her contact details weren't up to date. And I don't think that's as a result of something that Next has done wrong;
- I do think that Next could have made it clearer to Mrs A when she entered into the repayment plan that they didn't accept cheques especially as it was a method of payment that she commonly used. There were occasions when they'd accepted cheques after their policy had changed. I think Next accepted the cheques to try and help Mrs A but it meant that she did try and continue to pay by cheque which caused confusion at a later point;
- Mrs A entered into the repayment plan in November and has provided correspondence, including cheques that were returned to her, which she says demonstrate that she was trying to make the payments towards the plan. Next says that they didn't hear from Mrs A between November and March. But the customer contact logs indicate that a cheque was received, and it appears credited, to the account in January 2017. That also fits with what Mrs A has told us as she mentioned sending a cheque in late December. She's also provided copies of cheques that Next returned during that period. So I think that Next could have done more to engage with Mrs A during that time and this could have avoided the account being passed to an external collections company;
- However it doesn't automatically follow that I'm upholding this complaint in full. I've not seen evidence to suggest that Mrs A has experienced any financial loss as a result of her account being passed to an external debt collection company or that it's negatively impacted on her credit file. Mrs A's account was already in default and I've not seen evidence to suggest that she's been negatively impacted by the debt being collected by a third party rather than an in-house debt recovery team;
- I do think it's likely that Mrs A has experienced some distress and inconvenience as a result of the customer service she received between November 2016 and March 2017. I think that she was trying to contact Next to sort out the repayment plan but it's most likely that her letters were being returned or not responded to. I also think Next could've made it clearer to her at the point she entered into the repayment plan that she couldn't pay by cheque. Having taken this into account I think it's fair that Next pay Mrs A £100 compensation for the inconvenience of her correspondence not being properly dealt with.

my provisional decision

I'm intending to partly uphold Mrs A's complaint and direct that Next Retail Limited pay Mrs A £100 for the reasons I've outlined above. If Mrs A or Next have any further information that they think might make a difference to the outcome of this complaint they should let me know by 20 September 2018.

Anna Wilshaw
ombudsman

