

complaint

Mr J complains that MYJAR Limited have incorrectly recorded an arrangement to pay on his credit file.

background

Mr J took out a loan with MYJAR in August 2010. He didn't make any repayments on the loan and because of the financial difficulties he was having he entered into an IVA in December 2010. As part of the IVA the loan from MYJAR was included and the business was notified in January 2011 of the arrangements. Mr J says that MYJAR has recorded an arrangement to pay or AP status on his credit file instead of a default.

MYJAR said that because Mr J was repaying his loan through the IVA, the AP status is correct and it wouldn't adjust the credit file.

Our adjudicator considered the complaint should be upheld. He considered the guidance from the Information Commissioner's Office (ICO) which explains that where a debt is included in an insolvency such as an IVA or bankruptcy a default should be filed as soon as practicable. He thought that this was the correct approach and MYJAR should apply to remove the AP status and backdate a default to the date of the insolvency order.

MYJAR didn't respond to the adjudicator's view so the complaint has been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusions as the adjudicator for the same reasons.

The guidance from the ICO makes it clear that in circumstances such as this where a loan is part of an IVA the lender must register a default as soon as is practicable. Once the lender is made aware of the date of the insolvency the date of the default can be aligned at the Credit Reference Agency. The date of the insolvency order in Mr J's case is 31 December 2010.

MYJAR hasn't explained why it has departed from this guidance and I can see no good reason for it to have done so.

putting things right

MYJAR should now apply to remove the AP status on Mr J's file and apply to register a default dated 31 December 2010.

my final decision

My final decision is that I uphold this complaint. In full and final settlement MYJAR should put things right as I have set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 14 June 2018.

Emma Boothroyd
ombudsman