

The complaint

Mr W complains that Madison CF UK Limited sold his debt to a third party and recorded a default without telling him beforehand.

What happened

Mr W took out a £3,000 loan with Madison around January 2019. The loan was arranged to run for a 24-month term and Mr W was due to pay £292.57 each month.

Between February and September 2019, Mr W was unable to make all his repayments. During this period, he contacted Madison because he was unable to pay and set up a few different repayment plans. The most recent plan was arranged to run from July – September 2019, during which Mr W agreed to pay £100 each month.

In September, Madison decided to register a default and sell the loan account to a third party. Mr W complained because Madison didn't tell him it was planning to do this. Mr W says he'd told Madison that the repayment plan was temporary and that he expected some money in September, which would enable him to catch up with his loan repayments. Madison explained that the terms and conditions of Mr W's loan agreement allow it to sell the debt, without notice, at any time. Madison added that it was a commercial decision to sell the debt and that the amount Mr W owes hasn't changed as a result of the third party taking ownership of his loan.

Mr W asked this service to step in. Our investigator didn't think that Madison had acted unfairly. She explained that Madison sent default notices to Mr W after he continued to miss his repayments and that it was entitled to sell the debt as per the terms and conditions. The investigator also acknowledged that Madison had taken steps to help Mr W with his repayments.

Mr W disagreed saying he didn't receive the default notices and doesn't understand why Madison agreed to the repayment plans if it was going to default the account and sell the debt. He told our investigator that he'd planned to clear the arrears by the end of September, but the investigator wasn't persuaded by this given Mr C's history of missed repayments. Mr W mentioned he'd been told that collection procedures would continue, but he says he didn't understand what Madison meant when it said this. He's also concerned about a payment being taken in September, despite the debt already having been sold.

Remaining unhappy, Mr W asked for a review by an ombudsman.

What I've decided – and why

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'm not upholding this complaint.

The terms and conditions of Mr W's loan agreement say "*we may transfer our rights or duties under this agreement to another person or entity*". Essentially, the terms say that Madison can transfer ownership of the debt to a third party. So, I'm satisfied that Madison

acted in line with the terms when it sold Mr W's loan. The terms explain that Mr W's rights would not be affected and Madison says the sale didn't affect the balance he owes. So, I don't think Mr W would've been negatively affected by the sale.

Mr W's unhappy that Madison didn't give him prior notice that it was planning to sell the debt. But there's nothing in the terms that say it needed to, so I wouldn't expect Madison to have notified Mr W beforehand.

Mr W says he didn't know that Madison would record a default despite him being on a repayment plan. I've seen copies of the default notices Madison sent in July and August 2019 – both advise Mr W of his arrears, the steps he needed to take, and the action Madison could take to recover the balance he owes. Mr W says he didn't receive these notices. Although I can't say for certain that he did, the letters are correctly addressed and Madison says it sent them. Mr W also hasn't reported any other postal issues around that time. So I think it's likely that he did receive both default notices.

Mr W's loan account had been in arrears since around March 2019. Between then and September, his repayments were either made late or not made at all.

The Information Commissioner's Office (ICO) says that when a consumer is at least three months behind with their payments then a default may be registered. And it would expect a default to be registered by the time the consumer is six months behind with their payments. Madison appears to have registered the default once Mr W was around six months behind with his repayments – the default letter Madison sent in August advises Mr W that his arrears amounted to £1,555.42. So I can't say that Madison acted unfairly by registering the default when it did.

Mr W says he told Madison that he expected refunds on loans and a bonus payment in September, so he would've been able to clear his arrears at the end of that month. Having listened to the calls Mr W had with Madison, I can see that he did mention that he's expecting refunds from other lenders. It doesn't appear as though he talked about receiving a bonus payment. But this doesn't make a difference to my opinion. By September, Mr W was around six months in arrears – so Madison acted fairly when it registered the default.

Moreover, it seems Mr W mentioned in an earlier call that he planned to clear the arrears or pay a lump sum at the end of August. It seems he was unable to carry this out, so I don't think it's unreasonable that Madison moved forward with the default and the sale despite Mr W making this pledge a second time.

Mr W says he didn't understand what Madison meant when it told him about collection procedures over the phone. I've listened to the calls and that phrase was mentioned several times. Mr W thinks Madison should've explained what was meant by 'collection procedures' in more detail. I agree that this phrase alone isn't very clear. But Mr W didn't tell Madison that he didn't understand, nor did he ask for more information. So I wouldn't reasonably expect Madison to have known that Mr W needed clarity on what it meant by this.

Even if I thought differently, it doesn't make a difference to my view. I say this because, even if Madison did provide more detail on what it meant by 'collection procedures', it doesn't make a difference to the fact that Mr W was in arrears for around six months when Madison chose to sell the debt and register the default. The procedure would've been applied regardless and I think it was applied fairly in this instance.

Mr W is concerned about the payment he made in September. He says Madison shouldn't have accepted this payment at the time given it had already sold the debt. I've queried this with Madison, and it told me that the payment was made whilst the sale of the debt was

taking place and it was during the transition period. Madison says it had an agreement in place with the third party to continue taking payments during the transition period – any payments would be passed on to the third party.

I acknowledge Mr W's concern, but I don't think he lost out when Madison took this payment and I don't think it acted unfairly by doing so. So I won't be asking Madison to do anything different in relation to this.

In summary, Madison didn't treat Mr W unfairly when it sold his debt to a third party and registered a default against his name. I won't be instructing Madison to do anything in relation to this complaint.

My final decision

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 April 2020.

Abdul Ali
Ombudsman