

The complaint

Mr S makes a number of complaints about Hoist Finance UK Limited following the sale of a debt to it. Mr S is represented by a business I will call “L”.

What happened

Mr S says Hoist has failed to provide either him or his representative information he would like to see about the sale of his debt from a business I will call “B” to Hoist. He says there were incorrect interest rates and amounts applied to the debt and the bank has failed to provide full disclosure of what took place and failed to respond. Mr S says a loan has been assigned which may be fraudulent and there was breach of data protection rules.

Hoist says it bought a credit card debt from B in September 2018 and says it doesn't have a request for information about the debt from either Mr S or L. It says Mr S should contact B if he has a complaint about the debt or the charges applied to it.

The complaint was brought to us and our investigator didn't uphold it. The investigator thought it likely any request for information by Mr S was made to B and so any complaints ought to be directed to it and not Hoist. The investigator didn't think it our role to punish a business for a data protection breach and didn't think there was any evidence Mr S had been treated unfairly by Hoist.

L on behalf of Mr S says the loan was fraudulent and says we can't ignore the regulatory position or the law and says Hoist hasn't complied with the law and so the loan is unenforceable.

The complaint was referred to me in June 2020 and I asked Mr S and L for further information. In summary I asked why they referred to a loan when the debt appeared to be a credit card debt. I also asked for more detail around the allegation of fraud and whether it was it reported to the police. I also asked for a copy of the letter Hoist is said to have ignored and asked L to explain in simple terms what this complaint was about and against which party was the complaint against – Hoist or B.

L has replied and asked for information about what we do and do not have but has not answered my questions and says this complaint ought to be paused. But I now have to make a decision.

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 have come to the overall view that I don't uphold this complaint. I appreciate that L has asked that we pause this complaint, but I'm satisfied that I asked for the information in June 2020 and have made a number of requests for information about the questions I raised. I think a reasonable time period has been allowed, even allowing for inevitable delays and issues due to the current situation. And I don't think it fair and

reasonable to allow this complaint to be paused any longer to answer what I think are straightforward questions. That's in keeping with this service's role as a quick and informal dispute resolution service and my role – which is to come to a decision based on the evidence, I feel I need to do so. Here I'm satisfied that I have sufficient evidence to reach a decision and that L on behalf of Mr S has had sufficient time to make further representations.

I have looked at Hoist's records and I'm satisfied there is no record of any request by Mr S or L for information about the debt and so it follows I'm satisfied that Hoist hasn't ignored any requests for information. I asked Mr S and L for a copy of the request for information letter and I would reasonably have expected them to have provided a copy, or at least had more information about this, if it was sent to Hoist. Having looked at the nature of the complaint I think it more likely that any request for information about the debt would have been made to B and not Hoist in any event and B would have been better placed to have answered any questions.

I'm satisfied that Hoist bought a credit card debt and I don't know why L has said it was a loan. And I don't think L or Mr S has explained why they say there has been a fraud or by whom. In any event it would be for a court to decide if a business acted fraudulently, not us and for a court to decide if Hoist hadn't complied with the law. But even taking these points into account, I haven't seen anything to suggest that Hoist is acting unfairly here by asking Mr S to repay this debt as it is.

Overall, I find Hoist has tried fairly to deal with Mr S's complaint. But I don't think he has been clear about what his complaint is about or against whom it is made. There does seem to be the suggestion here that Hoist shouldn't be asking Mr S to repay what he borrowed from B here. But Hoist was passed a debt by B and was asked to collect it. I haven't seen any reason that it wouldn't be fair for Hoist to have then done this here. I hope Mr S appreciates what our role is and that we are not either Hoist's or B's regulator and so we can't punish a business.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 25 December 2020.

David Singh
Ombudsman