

The complaint

Mr S has complained about Debt Managers (Services) Limited pursuing him for a debt which was taken out fraudulently in his name.

What happened

This complaint is about a consumer credit agreement which was opened in Mr S's name, then was sold to Debt Managers in 2016.

In 2018, Debt Managers got a county court judgement (CCJ). Mr S discovered what had happened, and in 2019 he successfully got the judgement set aside. According to the documents, this was done with both parties agreeing to bear their own costs.

In 2021, Debt Managers sent Mr S correspondence about this debt, and Mr S reminded them about the court order. Debt Managers apologised, reassured Mr S that the account had now been closed and removed from his credit file, and offered him £250 compensation.

Mr S came to our service. He wanted Debt Managers to refund his legal fees of over £1,800.

Our investigator looked into things independently and didn't uphold the complaint. They explained that we couldn't overrule what had already been decided in court.

Mr S didn't agree. He raised further points around Debt Managers getting the CCJ, the impact of the CCJ, and them not turning up to court later. He reiterated his unhappiness that Debt Managers contacted him again about the debt, and said they took too long to deal with the matter. He wanted Debt Managers to be better regulated and wanted them to change the way they ran their business.

The complaint was passed to me to decide.

I sent Mr S and Debt Managers a provisional decision on 21 December 2021, to explain why I didn't think the complaint should be upheld. In that decision, I said:

I think it would be helpful if I first explained what we can and can't do. The Financial Ombudsman Service is here to resolve complaints informally. We're not the regulator and cannot change the regulations or change the way Debt Managers work across the board. It's the Financial Conduct Authority (FCA for short) who regulate financial businesses.

Further, we are an informal alternative to the courts, and we cannot overrule what a court says. And we cannot generally make decisions about issues that have already been dealt with in court.

In addition, we can only look at complaints about “regulated activities” – such as collecting a debt under a credit agreement. But once a business gets a county court judgement, the original credit agreement falls away. And instead of the money being due under a credit agreement, it’s then due under the CCJ instead. So in order to recover the money, the business is no longer collecting a debt under a credit agreement – it can only attempt to recover the money by enforcing the court judgement. And enforcing court judgements is not a regulated activity.

In practice, what this all means is that I cannot consider Mr S’s complaint points surrounding Debt Managers getting the CCJ or the court action that followed. I cannot consider the impact of the CCJ, nor his points about Debt Managers not turning up to court, nor the way it was set aside, nor the legal costs involved. I know this will come as a disappointment for Mr S, but in his case those points are outside of our jurisdiction.

What I can consider is what happened in 2021. It looks like, by that point, the CCJ had been set aside and the regulated agreement was effectively reinstated. So Debt Managers were then trying to collect a debt under a credit agreement, which is a regulated activity.

I can certainly appreciate why Debt Managers’ correspondence would have been most frustrating for Mr S, given the court action he’d already been through. I can see that both sides accept Debt Managers got things wrong there. It appears that both sides also accept that Debt Managers took longer than they should have to deal with the issue.

But in their final response, Debt Managers admitted they were at fault and apologised. They made sure the account was closed and would not affect Mr S’s credit file. And they offered him £250 compensation, to acknowledge their mistake and the impact it had. And that’s in line with what we would have told them to do to put right the mistakes they made in 2021. It’s worth bearing in mind that we’re not here to fine or punish businesses.

So while I agree that Debt Managers got things wrong in 2021, and while I understand the basis of Mr S’s complaint, I think that Debt Managers have already offered a fair resolution. And so I do not plan to award anything further.

I said I’d consider anything else anyone wanted to give me – so long as I received it by 18 January 2022. But neither Mr S nor Debt Managers sent me anything new to consider.

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.

Neither side have sent me any new evidence or arguments. So having reconsidered the case, I’ve come to the same conclusion as before, and for the same reasons as set out in my provisional decision above.

My final decision

I find that Debt Managers (Services) Limited have already made a fair offer of compensation to resolve this complaint, so I don’t award anything further.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or

reject my decision before 16 February 2022.

Adam Charles
Ombudsman