

The complaint

Mr E complains that FUND OURSELVES LIMITED (“Fund Ourselves”) has not treated him fairly. He complains that it has not been transparent with him.

Mr E has suggested that the debt is not his. The name of the lender was different when the loan was set up and the agreement had no identifiable information to link it to him.

Mr E has said that he should have been told before the debt was passed to a third party debt collection agent not after it had happened. He should have been told there would be additional costs. Mr E says it was confusing as to who the account was with.

The debt collector tactics used were distressing.

What happened

Mr E has been made aware of a debt relating to a loan which he has been told by Fund Ourselves was his. Mr E is not satisfied that the loan was his or that the debt was his.

The loan about which this relates was approved in February 2018. It was for £200 repayable over three instalments in March, April, and May 2018 – around £93 each instalment. Since then, Fund Ourselves has explained to Mr E it has received one payment for £10.50 through a debt management plan (DMP). Fund Ourselves used to be called something different which may have added to the lack of clarity for Mr E. I’ll refer to that earlier name as ‘PTP’.

A third party charity which specialises in arranging debt management plans and giving advice to consumers has been involved with Mr E. I plan to call that party ‘the charity’.

A third party the name of which was made up of three initials was a debt collection agency. The other name associated with that debt collector appeared to be that of a law firm and is regulated by the Solicitors’ Regulation Authority (SRA). We cannot look at complaints about bodies regulated by the SRA and Mr E knows this.

Mr E approached us about his complaint. One of our representatives commenced the complaint proceedings by writing to Fund Ourselves.

It responded with its final response letter (FRL). In that letter it explained:

- Mr E’s account was passed to the debt collector after it had only received £10.50 in total;
- the charity payments through the DMP were accompanied by correspondence from the charity telling Fund Ourselves about the status of the account and so it considers that’s enough to show Mr E owned the debt and he knew that
- additional interest due to the late repayments was added in line with the terms of the agreement Mr E signed electronically in 2018
- Fund Ourselves did not need to notify Mr E of his account being passed to the debt

collector as it would have written to Mr E to tell him the account was with it.

- the debt will remain with the debt collector and Mr E will have to liaise with it directly.

Then Mr E asked us to investigate and one of our adjudicators gathered more information from Fund Ourselves. That demonstrated to our adjudicator that the agreement for the loan was taken out by Mr E under a certain numerical reference which had appeared on correspondence since then.

The numerical reference created for Mr E by the charity was different. And as Mr E had several debt plans with it there were multiple references.

Our adjudicator pointed out that Mr E had included the Fund Ourselves debt into the charity records when arranging more than one debt management plan in recent years. So, she considered that Mr E likely knew the debt was there.

Our adjudicator did not think that Fund Ourselves had done anything wrong by passing the debt to the debt collector to proceed to get the loan paid down. And she did not think that it was incorrect of Fund Ourselves to leave it to the debt collection agency to explain to him that the debt had been passed to it.

Our adjudicator thought that from Mr E's correspondence with the debt collector /the debt collector's solicitors, Mr E knew about the debt and was not expecting a different debt collector to have contacted him.

Mr E was not content at our adjudicator's view and made several points in a detailed response, all of which I have read and address in the main part of the decision which follows.

The unresolved complaint was passed to me to decide. I asked Fund Ourselves to clarify a few points and it told us recently:

- the debt collector collects the debt on behalf of Fund Ourselves – the debt was never sold to it;
- the debt collectors' solicitors' firm is its legal arm and specialises in debt recovery litigation
- the interest on the original £200 had accrued with the passage of time and due to non-payment by Mr E. It was up to the Financial Conduct Authority (FCA) cost-cap which took the sum to £400. One payment of £10.50 was received on 13 December 2018 so the outstanding balance is £389.50.

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.

I have reviewed the other complaint Mr E has told us about and which was referred to the Financial Ombudsman Service. It has provided me with some background information required to fully understand this complaint.

The parts of the complaint which have been or need to be dealt with separately

The debt collector tactics used were distressing.

I note that this has been dealt with under a different complaint and a colleague ombudsman has made a decision on that and so I say no more about it.

The irresponsible lending claim

Mr E's response to our adjudicator's view raised another new point which, in my view, will need to be a separate complaint as Fund Ourselves has not been given any chance to investigate or to reply to this. The new point was that

'...fund ourselves [sic] should show that it sufficiently carried out affordability checks due to the evidence that I was struggling with debt and living on disability benefits at that time.

So, I think Mr E needs to raise this directly with Fund Ourselves. In the meantime, I say no more about it.

The reduced offers made in May and June 2022

Mr E's response to our adjudicator's view also raised a new point which, in my view, will need to be a separate complaint as Fund Ourselves – or the relevant parties – have not been given any chance to investigate or to reply to this. The new point was that as he'd been offered a reduced sum to settle the debt then the full sum of £400 ought not to be demanded now.

So, I think Mr E needs to raise this directly with Fund Ourselves. In the meantime, I say no more about it.

This complaint and my findings

The charity involvement

Fund Ourselves has sent to us summary lists of the correspondence between it and the charity Mr E had got involved with. The charity was used by Mr E to set up the debt management plans he needed. I set out some details here as it was useful background information and relevant to the complaint points Mr E has raised and the claims he has made.

The correspondence lists Fund Ourselves has sent to us, show that he had a charity debt plan reference ending *255 – so that was different to his specific Fund Ourselves reference. Mr E has also provided a charity debt management plan reference ending *681, but as I demonstrate in this decision it appears Mr E had more than one plan using that charity and so I do not think much turns on that differing reference issue.

The first debt management plan must have started before September 2018 (Mr E took the loan in February 2018) as the correspondence list Fund Ourselves has sent us shows the charity had told Fund Ourselves in September 2018 that it had not received the expected payment from Mr E to support the repayment plan.

Later there's an account note in the Fund Ourselves records I've read which shows that Mr E gave his partner permission to act on his behalf – he still wanted to carry on with the debt management plan but he had missed an appointment with his benefits provider and had lost some income. Fund Ourselves placed the account on a 30 day hold.

January 2019 the charity informed Fund Ourselves the account with it (the charity) had closed due to non-payment by Mr E. By May 2019 the account was in default. In July 2019 a

fresh letter from the charity was sent to Fund Ourselves offering £5.01. In September 2019 the charity informed it that Mr E had failed to pay and so the debt management plan had failed. Then a new offer through the charity was made in February 2020.

So, it's clear that since the middle of 2018 onwards Mr E had been liaising with Fund Ourselves and the charity in relation to the debt.

Details on the other complaint file tell me that Fund Ourselves contacted the debt collector on 24 November 2021 to collect the balance of £400. It was passed to the solicitors on 30 December 2021 to commence legal action.

Is this Mr E's debt?

After the adjudicator's view about this complaint against Fund Ourselves, Mr E responded with a lot of detailed points and one of them questions whether the loan was ever agreed with him or if it was '*paid out*'. Mr E seemed to be questioning whether he even received the £200 in February 2018.

I've seen evidence from Fund Ourselves which demonstrates there was an agreement taken out in February 2018 between it and Mr E. The name it used to use was 'PTP'. Fund Ourselves explained to the Financial Ombudsman Service as follows:

'...in the loan agreement, you will not find [Mr E's] name and address - he is identified by a unique reference number. This is to protect his identity from investors as we are a peer to peer lender.

This is also an old account and before we rebranded so in the loan agreement you will notice our previous trading name which was ['PTP'].

In December 2022, after he'd complained, Mr E wrote directly to Fund Ourselves and received a copy of the agreement. This is a significant indication Mr E knew that the debt related to Fund Ourselves and so I think its further evidence he knew what this was about.

The agreement when he received the copy from Fund Ourselves had no name or address on it relating to Mr E and does not use the name 'PTP' anywhere nor did it explain the change in name. The covering email letter sending it to Mr E says he took the loan '*...with Fund Ourselves (previously known as [WLU] on 24 February 2018 for £200.*'

I can see that would be confusing as WLU is different again to PTP which is different to Fund Ourselves. But by the time Mr E had complained to Fund Ourselves in December 2022, then as Mr E had been in receipt of a lot of information surrounding the loan and the debt and the parties acting for Fund Ourselves since 2018, then I doubt that the covering email would have been so confusing that Mr E had no idea which debt it related to.

This complaint point is one of the reasons I gave some background information about Mr E's involvement with the charity. It was to demonstrate that chronologically, by the time this email arrived sending to him the legal agreement in December 2022, Mr E had already had a lot of dealings with at least two parties surrounding the amount he owed to Fund Ourselves. So, I am not persuaded that Mr E would have been particularly confused.

The numerical reference Fund Ourselves gave to Mr E's agreement (ending *907) has been demonstrated to us as linking with Mr E. Fund Ourselves has sent us a document allocating that numerical reference to Mr E's name and address and email as well as his date of birth and his mobile telephone number. That telephone number is different to the one the Financial Ombudsman Service has for him and so it may have changed. But the other

details remain the same including his email address.

Further, I have seen information which shows me that each time Mr E had started to arrange a debt management plan with the help of the charity the Fund Ourselves agreement was mentioned. And I have seen that before Mr E asked for a copy of the loan agreement in December 2022 when he raised his complaint with Fund Ourselves, Mr E had already been in touch with the debt collector and had already referred to having arranged, or being in the process of arranging, debt management plans.

So, I am not persuaded by the information I have from both complaint files plus what Mr E has said recently that there's any doubt that the loan was one Mr E took. And I don't consider that Mr E was confused by it either.

I do not uphold this part of Mr E's complaint.

Informing Mr E of debt collection activity

Mr E has sent to the Financial Ombudsman Service a screenshot of two messages from solicitors who appeared to be acting for the debt collector's recovery team and were dated 15 May 2022 and 27 May 2022. It was offering a reduced sum to settle the Fund Ourselves £400 debt and provided a telephone number to call.

In the list of points Mr E has raised after receiving our adjudicator's view, Mr E has accepted that he had been dealing with the debt collector and from that I think it's reasonable of me to conclude that Mr E knew of the debt collector he had been dealing with. Following on from my reasonable conclusion, the emails from the solicitor's end with

'[debt collector three initials] *Debt Recovery Team.*'

Account notes relating to both the debt collector and the solicitors firm acting for the debt collector on the other complaint show me that Mr E was in contact by email with both from January 2022. That would have been soon after the debt collector was instructed on 24 November 2021. Alternatively, if he contacted the debt collector, as the solicitors were involved, the debt collector passed on Mr E's communications to it. And I say that because the account notes dovetail with each other in that fashion.

Mr E told both parties – the debt collector and the solicitors - his new address he had moved to in January 2022 and that he was trying to set up a new debt management plan in January 2022 and February 2022 with a new reference number ending *234.

Mr E had received emails from both during that time. And there's a record of Mr E calling a representative of one those parties to talk about receiving a '*letter before claim*' on 24 February 2022. So, I do not consider that Mr E receiving the emails he did in May 2022 were from a party about which he knew nothing and that the debt collector was in the wrong when the account was transferred to it.

And if anything had gone wrong around May and June 2022 then that has been decided on the other complaint and I do not interfere with completed complaints.

The debt total sum

Mr E responded to another part of the adjudicator's view in this way:

'Since I did not have access to the loan agreement, I couldn't have known that fund ourselves [sic] would be able to pass the account over without any notice, resulting in

extra charges. The adjudicator mentioned that it is unclear what the extra charges are for, whether it's a result of interest, or my account being passed over to a debt collector.'

The original debt due to have been repaid over five years ago in April 2018 was the cost of the loan being £200 plus interest which would have come to about £280.

In the FRL Fund Ourselves sent Mr E, it made it clear that the agreement provided for additional interest which was added to the debt. This has been confirmed with me recently. So, I consider that to be the answer here. It would have been made up of the additional agreement interest and not any additional costs from use of the debt collector.

There would be additional costs if the debt was to become the subject of court proceedings as the lender would then be able to add on court fees and other charges. I have no details of any of that and if I did I'd consider that to have been reasonable additional charges if and when Fund Ourselves had got to the point of having to pursue Mr E through the courts.

But using the evidence I have, together with recent confirmation from Fund Ourselves, I consider that the £400 was the amount the debt had got to before it was passed to the debt collector.

It may be that Fund Ourselves instructed the debt collector incorrectly as it seems from recent information provided to me that Mr E owes Fund Ourselves £389.50. That may be inappropriate but I do not consider it to have been one that warrants any redress to Mr E as my view is that as and when the debt was paid down the actual sums would likely have become clear and any over payments would have been avoided. Recent information from Fund Ourselves is that Mr E has only paid £10.50 on a debt due to have been repaid May 2018. And so, addressing potential overpayments appears premature to me.

Mr E's reference to CONC 6.7.3

This is irrelevant as Fund Ourselves was already aware that Mr E had had trouble repaying the debt as he was in a debt management plan the first time round with the charity in 2018.

And Mr E has accepted – and I have seen account notes to back this up – that he had been communicating with the debt collector and/or the solicitors in early 2022 and so I do not think that Mr E was under any misunderstanding as to who it was he needed to communicate with.

Mr E's reference to CONC 7.3.18

I have used the information from both complaint files. It seems that Mr E had informed the debt collector and/or the solicitors that he was in the process of moving house and arranging a further debt management plan in January 2022 which would have been relatively soon after the debt collectors were instructed. It placed a 35 day hold on the account from 14 January 2022. On 7 February 2022 Mr E asked for a further 30 day hold. Despite this Mr E received letters. Mr E complained.

In May 2022 the solicitors acting for the debt collector appear to have written their final response letter and upheld that part of his complaint. The referral rights were to the Solicitors Regulation Authority (SRA). That is a different body to the Financial Ombudsman Service. So, a part of that complaint we could not look at.

One part of that complaint could be looked at by us and it was. That complaint was completed with a decision from one of my colleague ombudsmen on 12 April 2023 and Mr E

accepted that decision. I mentioned this at the beginning of this decision to which I gave a subheading '*The parts of the complaint which have been or need to be dealt with separately*'.

Mr E's responses to our adjudicator's view on this complaint was dated 29 May 2023 and so I know that Mr E was aware of the outcome of the other complaint as he told us about it. So, this point surrounding the alleged contravention of CONC 7.3.18 appears to have been covered in that complaint.

As such, I say no more about it.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 26 September 2023.

Rachael Williams
Ombudsman