

The complaint

Mr C complains that Elderbridge Limited are pursuing him for the repayment of a second charge secured loan that he says was taken out without his knowledge.

What happened

In 2004, a loan was taken out in the names of Mr C and his ex-partner that was secured on the home they jointly owned together by way of a second charge. In 2006 the relationship ended, and Mr C moved out to another address.

In June 2023, Elderbridge wrote to Mr C asking him to contact them. When he did, they told him that he had an outstanding debt of around £2,800 that he needed to repay. Mr C wrote to Elderbridge to say that he had no knowledge of the debt and asked them to stop contacting him about it.

Elderbridge logged a complaint and provided a final response letter on 24 July 2023. They said Mr C is only receiving correspondence about this debt now as they have his updated address, but they had been attempting contact for some time. They said they have a duty of care and regulatory obligation to keep him informed of the status of his account when in arrears. They apologised for any distress caused by the letters they'd sent him. Elderbridge also said that a previous complaint had been raised in 2017 disputing the debt, and this had been addressed in a final response letter at the time. As that letter gave Mr C referral rights to our service with a six-month deadline to contact us, should Mr C bring this complaint to our service we may not accept it.

Elderbridge continued to write to Mr C about repayment of the debt and he referred his complaint to our service in August 2023. Mr C told us that his recollection of what happened around 2004 is hazy, but he believed his ex-partner had taken out a re-mortgage, not a second charge loan, with their first charge lender. He said his ex-partner handled all the financial matters, but he did not sign the loan agreement for this loan. He said the signature on the agreement is not his signature. Mr C said that when he moved out of the house he lived in with his ex-partner in 2006, they made an informal agreement that he would relinquish any of his interest in the property. He had never had any contact with Elderbridge about this loan, nor had he made any payments.

Elderbridge said that Mr C's complaint had been made outside of the time limits our service must apply. They said the loan was taken out in 2004, more than six years ago, and Mr C ought reasonably to have been aware of it more than three years before he complained. They didn't give our service their consent to consider the complaint.

Our Investigator looked into things, and explained that she thought the complaint was within our service's jurisdiction as it had been made within the time limits. She found that the complaint Elderbridge had referred to in 2017 was made by Mr C's ex-partner, not Mr C. She considered the merits of the complaint, but didn't think Elderbridge were acting unfairly by contacting Mr C about the debt.

Elderbridge accepted the Investigator's opinion, but Mr C didn't. He said that he still hadn't seen any proof that this debt exists. He remained satisfied that it was not his signature on the loan agreement and so Elderbridge cannot chase him for the outstanding debt. He asked for the complaint to be referred to 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.

Firstly, as Elderbridge have accepted our Investigator's view on our service's jurisdiction to consider this complaint, I won't address that in this decision. I'm satisfied that our service does have the power to consider this complaint and so I will move on to address the merits of Mr C's concerns.

I understand it must have been alarming for Mr C to have received contact from Elderbridge last year about an outstanding debt in his name that was taken out in 2004. From what I understand, Mr C cut all financial ties with his ex-partner when they separated in 2006, and he hasn't had anything to do with the house they owned together since then. Although, as I understand it, nothing formal was confirmed at the time as to responsibility for any outstanding finance or equity/assets relating to the property. Mr C said he agreed to relinquish any of his interest in the property in 2006, but no legal amendments to the property's title had been made to that effect.

I've considered the loan agreement, the statements, and the correspondence sent to the secured property address, and I'm satisfied that this debt does exist and is held in Mr C's name jointly with his ex-partner. The loan agreement states that where there are two or more borrowers, the obligations of those borrowers under the agreement are joint and several. That means Mr C remains responsible for the debt and Elderbridge are entitled to pursue him for it, as well as his ex-partner. And the agreement Mr C made with his ex-partner about Mr C's interests in the property did not remove Mr C's liabilities on any of their joint debt that was secured against the property that they jointly owned.

Mr C says that the signature on the credit agreement is not his signature, and so it must have been forged. He has provided our service with copies of other documents he has signed to support his arguments. We are an informal dispute resolution service, and I am not a handwriting expert. But having reviewed the evidence both parties have provided, I've not seen that the signature on the credit agreement and loan application form is significantly different to the copies of Mr C's signature that he's provided himself. Elderbridge have offered to refer Mr C's concerns to their financial crime team, but Mr C has not engaged with that process.

Mr C says he was aware of a loan taken out by his ex-partner that was secured on the house, but he thought that was a re-mortgage with their existing first charge lender at the time. He's also told us his memory of that time is hazy, which is understandable given the loan was taken out 20 years ago. But I'm satisfied that at the very least, Mr C was aware that additional borrowing was taken out that was secured on the home he jointly owned (and still owns). And whilst Mr C may not have had anything to do with the property since he moved out, whilst he remains joint legal owner, and is named on any lending secured on the property, he remains liable for that secured debt. In addition, solicitors would need to have been involved in the set up of this loan to do the conveyancing, and Mr C's identity would need to have been verified at the time.

Overall, having considered all the information and evidence provided by both parties, I'm persuaded Elderbridge have acted fairly by contacting Mr C about this debt, and asking him to repay it. I understand Mr C is discussing the situation with Action Fraud. I would also suggest he seeks independent legal advice about any liabilities that may remain as a result of the joint ownership of the property he no longer lives in.

My final decision

Considering everything, for the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 7 June 2024.

Kathryn Billings
Ombudsman