

The complaint

Mr P complains that Equifax Limited declined his request to delete his personal information.

What happened

In September 2023 Equifax responded to a Data Subject Access Request (DSAR) Mr P made and sent him a copy of his credit file. Mr P went on to contact Equifax and said there were errors, omissions and inaccuracies in his credit file and requested that it delete all his personal information, including that displayed on his credit file. Mr P said the way Equifax was processing his information contravened Article 5 of the General Data Protection Regulation (GDPR) rules. Mr P explained he did not consent to Equifax processing information about him. Equifax raised a complaint to look into Mr P's concerns.

Equifax issued a final response in October 2023 but didn't agree to delete all the information it held about Mr P. Equifax advised it is regulated by the Financial Conduct Authority to operate as a credit reference agency that receives information from third party organisations like banks, communication providers and utility providers. Equifax advised that it was unable to delete "bureau data" despite Mr P's request. Equifax added that the rules it operates under don't require Mr P to provide consent and that it had overriding grounds to continue processing his data. Equifax agreed to delete information Mr P had supplied to obtain his statutory credit report.

Mr P referred his complaint to this service and it was passed to an investigator. They weren't persuaded Equifax had made a mistake or treated Mr P unfairly when looking at his request to delete his personal information. Mr P asked to appeal and said the investigator's conclusions had failed to uphold the rule of law. Mr P also said Equifax was guilty of a data breach and that he wanted his information to be deleted to remove the risk of it being leaked in the future. Mr P said there was no reasonable basis for Equifax to continue processing his data and asked to appeal. As a result, Mr P's complaint has been passed to me 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.

I'm aware I've summarised the events surrounding this complaint in less detail than the parties involved. No discourtesy is intended by my approach which reflects the informal nature of this service. I want to assure all parties I've read and considered everything on file. I'm satisfied I don't need to comment on every point raised to fairly reach my decision. And if I don't comment on something, it's not because I haven't considered it. It's because I've focused on what I think are the key issues. My approach is in line with the rules we operate under.

Mr P's explained that he doesn't agree with Equifax's claim that it is allowed to process personal information about him without his consent. Mr P's pointed to Article 5 of the GDPR rules in particular. I've read what Mr P's said about Article 5 and why he believes it means

Equifax has no legitimate reason to continue to process his data. In his submission to us, Mr P explained that he believes other credit reference agencies have a legitimate right to process data about him. But due to the way Equifax has operated, Mr P has explained his view is that it's not fit for purpose so should accept his request to delete all his information. Whilst I understand Mr P's view, I think Equifax makes a reasonable point when it says it's regulated by the Financial Conduct Authority as a credit reference agency. And that means it's allowed to operate in a similar way to other credit reference agencies.

So whilst I understand Mr P's view, I've checked what Equifax has said and can confirm it continues to be authorised to operate as a credit reference agency by the Financial Conduct Authority, the industry regulator. As I'm satisfied Equifax is entitled to act as a credit reference agency, I'm unable to agree with Mr P's view it has no legitimate reason to process information it receives from third parties about him.

I've looked at the reasons given in Article 5 that set out when businesses can process information about a consumer. Article 5 says personal data should be processed lawfully, fairly and in a transparent manner for a specified, explicit and legitimate purpose. The Information Commissioner's Office (ICO), the UK's independent regulator for data protection and information rights law, provides further information about how credit reference agencies operate and whether they require specific consent to process personal information.

The ICO explains that credit reference agencies aren't required by data protection law to have consent before being allowed to process a consumer's personal information in certain circumstances. The ICO says a credit reference agency can do so without consent if it has a valid reason known as "lawful basis." The ICO says that where a consumer has taken out a loan or credit card, for instance, they will likely have provided consent for information to be shared in the original terms and conditions signed. I note Equifax has also provided a detailed explanation of the types of information it processes and the basis on which it does so. I'm satisfied Equifax has explained the basis on which it continues to process Mr P's personal information. Taking all Mr P's comments into account along with the available evidence in this case, I haven't been persuaded Equifax's actions fall outside of the rules it operates under.

I want to assure Mr P that I've read and considered all the arguments and points he's made when bringing the complaint. But, for the reasons I've given above, I'm satisfied Equifax is entitled to operate as a credit reference agency. And I'm satisfied that means it's able to process personal data about Mr P without his consent. I'm sorry to disappoint Mr P but I haven't found grounds to tell Equifax to delete his personal information or uphold his complaint.

My final decision

My decision is that I don't uphold Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 February 2024.

Marco Manente
Ombudsman