

The complaint

Mr J complains PRAC Financial Limited wrongly reported a loan to his credit file which affected his financial standing.

Mr J is represented by his father in this matter, but for ease I shall refer primarily to Mr J as it is his complaint.

What happened

I issued my provisional findings to both parties setting out why I did not think Mr J's complaint should be upheld, and invited both parties to provide any further submissions in reply to my provisional decision.

The background to this complaint was set out in my provisional decision together with my provisional findings, which are included below and now form part of this final decision.

Background

Having reviewed this case, it is clear the background to this matter has been complicated by the fact there have been several parties associated in some way with these events, and because of this it has followed that there have been several complaints raised against these different parties.

The background I have set out below is therefore not intended as a chronology of all the exchanges there have been between various parties, rather it is to focus on what I consider to be the key events relevant to this complaint against PRAC.

The loan in question was taken out in November 2014. PRAC purchased this debt on 9 December 2016 and on 21 December 2016 instructed Company B to make arrangements to collect the debt.

In January 2017 Company B submitted a trace request to Company E to find the debtor. (Company E are a credit reference agency (CRA)). Company E's trace returned Mr J as the likely debtor, as the trace had identified Mr J due to a match with his name and date of birth.

On 24 February 2017 Mr J was contacted by PRAC informing him they had purchased a debt from a lender, and that PRAC had appointed Company B as their representative to collect the debt. The letter said Mr J should engage with Company B to arrange a suitable payment plan.

On 3 March 2017 Mr J contacted Company B to say he did not recognise the debt. Company B suggested a mis-trace could have occurred. Mr J said he would provide statements to support the debt was not his, but this did not happen straight away.

The debt was reported on Mr J's credit file from April 2017, and an address link was created between Mr J's address (Address 1) and a second address that appeared on the original credit agreement (Address 2).

In November 2017 there were several exchanges between Mr J and Company B. Mr J maintained the debt was not his, and he completed a fraud form for Company B. He also provided a bank statement to show he had never received the loan funds or made payments to the loan in question. Company B confirmed receipt of the form and statement on 29 November 2017.

In several communications during November and December 2017, Company B told Mr J they were querying the matter with their client. To this service, Company B said they had been querying the matter with the original creditor.

Mr J made a complaint about Company B which was brought to and considered by this service. Following this service's involvement, Company B instructed PRAC to remove the debt from Mr J's credit file. This was actioned under PRAC's instruction to Company E at the start of April 2019.

Mr J submitted a new complaint to Company B in June 2019 driven by the impact the matter had on him. That complaint was later brought to this service.

This service issued a final decision on 29 May 2020 which, given the earlier complaint, was limited to Company B's actions from May 2018.

Mr J then made a complaint to the CRA, Company E. This was brought to our service in September 2020.

Company E said according to their systems the 'locate record' (the link between the addresses) was created by PRAC.

On 12 January 2021 Company E asked PRAC to confirm if the link was created in error and to confirm whether Company E was authorised to remove the link between Address 1 and Address 2.

PRAC replied without delay to say: 'The locate record created on 11/04/2017 has been requested to be deleted. Equifax is fully authorised to delete this locate record, as it was created in error'.

The address link between Address 1 and Address 2 on Mr J's file was then removed in January 2021 shortly after PRAC's response to Company E.

Mr J complained to PRAC about what had happened, describing the impact this matter had on him, including that a mortgage application had been declined, as well as an attempt for car finance so he had to use his own savings, and the general impact financially and personally a poor credit score had inflicted. Mr J brought this matter against PRAC to our service in January 2022.

Our Investigator explained it was only possible to consider PRAC's actions, and matters already considered by this service could not be considered again. Our Investigator also recognised PRAC and Company B as separate legal entities. The Investigator concluded PRAC were not aware of the dispute until they were instructed to remove the data from Mr J's file. But the Investigator did submit PRAC, at the same time as removing the account from Mr J's file, should also have removed the address link given it was now known Mr J had no association with Address 2.

The Investigator awarded £500 to recognise the upset caused to Mr J by not having removed the address link at the same time as the account. The Investigator did not find

there was any other loss to be redressed.

Neither party accepted the Investigator's findings.

PRAC denied any responsibility for creating the address link, and subsequently any responsibility to have instigated its removal. They said it was Company E's processes at play here, and for Mr J to have disputed the address link with Company E directly. PRAC said as soon as Company E requested authority to remove the address link, it did this without any delay. Because of this PRAC said it had no liability for any consequential loss there may have been to Mr J, and they did not agree with the £500 award proposed by the Investigator.

PRAC also distanced themselves from the original trace request by stating the trace was carried out by Company B, and because the result was returned on the basis of information held by Company E.

Mr J's response included submissions to show the poor engagement of Company B and PRAC, and the closeness of the relationship between the two companies. Mr J disagreed that PRAC should only be held responsible from the time the address link should have been removed. Company B's correspondence to him had indicated that PRAC would have been aware of the trace problem from as far back as late 2017 given Company B's references to referring the matter to their client. Mr J was frustrated with PRAC and Company B for not answering his questions as to why they did not sort out this matter sooner.

The Investigator reviewed all the responses, but was not minded to alter their view. They said matters to do with the trace had been Company B's responsibility, and there was not enough evidence to show Company B contacted PRAC about the specific problem. They noted PRAC's system automatically updated information from Company B.

The Investigator noted Company E had confirmed the address link was created by PRAC, so they said it was for PRAC to have removed the address link from March 2019. They noted it would have been reasonable for Mr J to have accepted the matter was resolved after the account was removed, so he wasn't aware of the remaining link until much later.

Provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Before I set out my findings it is important for both parties to note the limitations of these considerations.

The Financial Ombudsman Service was set up to informally look at individual complaints fairly and impartially. So this service does not have the authority to fine or punish a firm, or interfere with a firm's processes, systems or practices – these are all considerations for the regulator, the Financial Conduct Authority (FCA). My role here is therefore to decide what is a fair and reasonable resolution in the circumstances of this individual complaint.

This complaint is about the actions of PRAC, so while other parties have been involved and associated with this matter, I make no findings about the actions of those other parties. It is also not for me to revisit matters that have already been considered by this service.

Debt collection

As this matter relates to the collection of debt I've considered what responsibilities and obligations apply to the pursuance and recovery of repayments.

CONC

Authorised and/or registered firms are required to follow the FCA's Handbook of rules and guidance when going about their business. The Handbook contains specialist sourcebooks indicating to firms in certain sectors how the Handbook applies to their business. The Consumer Credit sourcebook (CONC) covers credit-related regulated activities.

Chapter 7 of CONC applies to different firms, including those carrying out consumer credit lending and those carrying out debt collecting.

CONC 7.5 and CONC 7.14 relate to the pursuance and recovery of payments, the importance of ensuring the right party is pursued for payment, and that any valid disputes must be investigated.

FCA Principles

The FCA's Principles are the high-level standards overarching the Handbook framework and provide fundamental obligations of all firms.

Principle 6 notes that A firm must pay due regard to the interests of its customers and treat them fairly.

Reporting to credit reference agencies

The Information Commissioner's Office (ICO) sets out principles for reporting arrears, arrangements and defaults.

This document sets out that lenders supplying data to the CRAs ensure data is accurate, up to date and meets agreed quality standards. The same principle applies to lending organisations or debt collection agencies that later purchase the debt.

So what were PRAC's responsibilities in this particular case?

As the new owner of the debt, PRAC was required to report accurate and up to date information about the account they now owned. So they had a responsibility here.

When PRAC purchased the debt from the original creditor they engaged Company B's services to collect on the debt. So PRAC did not collect the debt directly themselves. This is clear from their letter dated 24 February 2017 which I mentioned earlier. PRAC refer to Company B as their representative in the matter and able to make arrangements with the individual on how to pay the debt.

Company B – a separate legal entity to PRAC - are authorised by the FCA in their own right and have been regulated since February 2016 to carry out debt administration and debt-collecting. So these were activities they could carry out independently, and so be accountable to relevant sections of CONC, therefore acting in their own capacity as a debt collector.

PRAC is also accountable to CONC, but in this case I've not seen anything to show they were active in collecting the debt. I've also not seen anything to date that Company B were acting under PRAC's own FCA authority to carry out the regulated activity of debt collecting. So in this case I think Company B were acting independently to collect this debt. So PRAC were not responsible for the debt collection.

PRAC was still however required to treat Mr J fairly and to ensure it was reporting accurate and up to date information to the CRAs.

So did PRAC do this?

I've noted Mr J asks the question; when did PRAC become aware he had disputed the debt? I think this is a fair question to ask, as awareness of the dispute would reasonably place responsibility on PRAC to review and consider whether it was reporting accurate and up to date information about the account.

Company B's website advertises that their tracing model allows them to verify and trace customer addresses to establish contact with the right party. So I can see why PRAC placed reliance on Company B's findings. PRAC have also explained their credit reporting is automated based on information recorded by Company B on its system.

PRAC have not explained how or if they are made aware of a valid dispute about a debt. They have simply said they only became aware of the need to change how they were reporting the account after Company B told them it needed to be removed from Mr J's credit file in April 2019.

I've considered what Mr J has said about Company B's letters that were sent to him through November and December 2017, as well as calls, which make several references of referring the dispute to their 'client'. I'm also aware that Company B have previously told this service that when the dispute was raised they made enquiries to the 'original creditor' rather than the 'client'.

I accept it's possible that such a referral from Company B to PRAC may have been enough to put PRAC on notice that their record of the debt was not accurate and warranted investigation.

This service asked PRAC if they were contacted by Company B about the possible mis-trace, with particular reference to Company B's referral to their client.

PRAC replied to say they believed this line of questioning referred back to the issue of the mis-trace and the previous complaint about Company B. PRAC said the dispute may have been raised with Company B, but it would have been Company B that dealt with it, not PRAC. Therefore PRAC said they continued to report the account to Mr J's credit file, on the basis that Company B was still satisfied the correct party was being contacted about the debt, until Company B updated them to state otherwise.

On the one hand, it is possible Company B did make PRAC aware of the dispute in late 2017, but on the other hand it is possible – despite their mentioning this to Mr J – that they did not. And there are no submissions to support what, if anything, PRAC were told about the disputed debt by Company B.

It is therefore not clear to me how/if these two companies communicated with each other about the dispute. I'm also mindful that Company B appear to have taken on much of the dealings in relation to this account, including involvement in this complaint.

PRAC updated Mr J's credit file on 12 April 2019 following this service's confirmation to Company B in March 2019 of a mis-trace. So they did act promptly when they were made aware and instructed to update their reporting.

As I've said above, I can only review the actions of PRAC in this matter. Nothing more. In light of the above, I've not seen enough at this time to say PRAC more likely than not knew

about the dispute prior to the instruction to remove the account from Mr J's credit file in April 2019. So while I recognise this is likely to frustrate Mr J, in the circumstances I am minded to say PRAC haven't done anything wrong here. Or that they should have stepped in sooner to help Mr J sort out this problem.

But I would remind PRAC of their regulatory obligations and responsibilities, including those set out under CONC, with particular regards to disputes and outsourcing, as well as the more recent introduction of the Consumer Duty going forward.

Linked addresses

As set out earlier, the account was removed from Mr J's credit file in April 2019, but the link between Address 1 and Address 2 remained until January 2021.

A linked address may be created when an account moves between addresses, such as when someone moves home, or when a lender checks an individual's records at their previous address, or if a CRA is told by an individual about a previous or forwarding address. And a linked address may stay on a credit file for as long as the information is relevant for credit referencing purposes. In some cases it is possible for an address link to have some impact on an individual's credit file, so this data should be accurate.

In this case the address link was created following the trace to find the debtor for the debt in question. It is unfortunate that Mr J was the only match with the actual debtor due to having the same name and date of birth. This is what has, in effect, set these events in motion as I am not aware of anything else to associate Mr J with Address 2.

I accept Company E have some responsibility here. While Company E as a CRA reports the information given to it by data providers (such as PRAC), the ICO does set out that CRAs have a responsibility in relation to financial links, linked addresses and alias information. So ensuring an address link is accurate would be one of Company E's responsibilities. PRAC, as noted, also have responsibilities to report accurate and up to date information. So I think it's fair to say they may also have some accountability here. So what did PRAC reasonably know about the reasons for removing the account from Mr J's credit file in April 2019?

PRAC were reporting the account, and stopped doing so when Company B instructed them to remove the account from Mr J's credit file. It is possible PRAC knew the reason for the removal of the account was due to a mis-trace so that the link between Address 1 and Address 2 should also have been severed in April 2019. But I'm also aware that Company E's records show the reason for the deletion of the account was 'fraud'.

On balance, and with the limited submissions available, I am therefore minded to say PRAC have not done anything wrong here by not requesting the address link be severed in April 2019.

I am sure the findings I am minded to reach will come as a disappointment to Mr J and his father. I am mindful of the lengths Mr J has gone to in order to get to the bottom of this matter. It is not my intention to cause more upset but I'm required to reach a fair and reasonable decision in the circumstances of the individual case.

I note Mr J's submissions about the closeness of the working relationship between PRAC and Company B, and that this makes the matter at hand difficult to unravel. But as I believe Mr J is aware, this service can not revisit matters already considered, so I am unable to revisit the matter of the trace which triggered these events.

I'm aware Mr J says now the trace is of secondary importance given he says the focus is on when PRAC ought reasonably to have been aware of the account being in dispute. As I've set out above, on balance there is not enough here for me to say PRAC were likely to have been aware of the dispute earlier on. They say there was no awareness on their part until the request to remove the account which they promptly acted upon. And while Company B refer to making referrals to their client, there is nothing available to me to show what PRAC was told, if anything. Company B were the debt collectors here and as an independently authorised firm were accountable for their own actions.

In the course of my review, I noted Mr J submitted how these events have impacted him, most notably in terms of his ability to obtain credit.

While my provisional findings are such that I am minded to say I have not found fault with PRAC's part in these events, it may help Mr J to know that if my conclusions were otherwise, I would've considered it unlikely that the declination of his mortgage was as a result of the account in question being recorded incorrectly against him. I say this because the mortgage lender declined Mr J's mortgage application on 6 December 2017 due to a recent payday loan being taken out, and the lender having no appetite to lend to individuals with a history of this type of credit.

The loan in question was taken out in 2014, so I think it's fair to say this was not recent at the time Mr J applied for the mortgage. And having reviewed a copy of Mr J's credit file, it appears there was a loan taken out in July 2017 in Mr J's name (against Address 1) for £464, which was repaid three months later. I think it's more likely than not this is the loan the lender was referring to, and not the loan which this complaint is about. So there wouldn't have been enough to say the 2014 loan account caused the problem with Mr J's mortgage being declined in December 2017.

A second short-term loan taken out in July 2018 and repaid in October 2019 is also showing on the copy of Mr J's credit file against Address 1. So it's likely this, and the earlier 2017 loan, may have impacted Mr J's attempt to obtain credit for his vehicle. It would therefore also follow that the 2014 loan incorrectly recorded on Mr J's credit file was unlikely to be the sole root cause of any declination for credit.

As I've said, on balance I'm minded to say PRAC have not done anything wrong here. So it would follow there would be nothing for PRAC to put right here.

Responses to my provisional decision

PRAC confirmed receipt of my provisional decision and offered no further evidence or submissions for me to consider.

Mr J's father provided detailed submissions expressing his and Mr J's frustrations with the provisional findings. In summary, Mr J's father referenced discrepancies that have persisted across the different complaints which have been associated with this matter; PRAC's awareness of his son's dispute; responsibilities relating to the linked addresses; reporting data accurately, and his son's financial standing.

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 recognise Mr J and his father's strength of feeling towards this matter and their frustrations with the various parties involved in these events, but as Mr J and his father are aware I am limited to considering the actions of PRAC in this final decision.

Having reconsidered the complaint together with Mr J's most recent submissions, I've decided not to uphold the complaint against PRAC.

The parties should note that I have reviewed all the available evidence and submissions for this case, but I will not respond to each and every point raised, rather I will make reference to evidence and submissions I consider relevant to fairly and reasonably determining this complaint.

Discrepancies

I've noted what Mr J's father has said about discrepancies during the course of the submissions from various parties.

It may help to explain where evidence I'm being asked to consider as part of my review is incomplete, inconclusive or contradictory, it is for me to then reach my decision on the balance of probabilities. In other words, I reach my decision based on what I think is more likely than not to have happened given the available evidence and wider circumstances.

PRAC's awareness

In my provisional decision I set out that Company B were responsible for collecting the debt in question, but there would be a reasonable expectation for PRAC to engage with Mr J's dispute if they had awareness of it.

I've reviewed the available evidence and submissions again, but while Company B clearly knew Mr J was disputing the debt, there is not enough to persuade me PRAC more likely than not knew of the dispute Mr J had raised.

Communications were predominantly between Company B and Mr J, and PRAC's credit reporting automatically updated based on information Company B input into its system. PRAC submit Company B would deal with a dispute, and so as long as Company B was satisfied the account was reporting correctly, PRAC say they had no reason to think anything different. As I've said above, Company B had their own responsibilities to meet. PRAC then didn't delay in correcting the error when notified to do so.

I've considered again Company B's references to their 'client' in their communications to Mr J (I agree 'client' is more likely than not to mean PRAC than the original credit provider), but this is what Company B told Mr J and there is nothing to suggest Company B more likely than not discussed the dispute with PRAC. The limited submissions from PRAC on this point are disappointing. Meanwhile Company B's notes do not record any interaction with PRAC about the matter, and I am mindful that Company B had a responsibility under CONC to investigate a dispute to ensure they were pursuing the right individual for payment of the debt.

On balance, there's not enough for me to say PRAC should have stepped in sooner than they did to update how they were reporting the account in question.

Linked addresses

I set out in my provisional findings examples of when a linked address may be created, and that the ICO sets out CRAs have a responsibility for financial links, linked addresses and

alias information. The ICO includes the example that a linked address can be created as a result of a 'mis-trace'.

CRA's provide a tracing service to organisations seeking to locate non-responsive debtors. The CRA will use its databases to find the individual the organisation is seeking and this will typically return a likely address for that individual. The ICO then expects the organisation to make 'tentative' approaches only and carry out further checks to confirm the identity of the individual. Based on the information gathered, and where appropriate, the organisation will then update their reporting to the CRA's in relation to the account.

As Mr J and his father are aware, I'm unable to revisit matters that have already been considered by this service – including the trace request by Company B, or any actions Company B took following this. But even if I'm wrong on this point, I cannot consider the activities undertaken by Company B as part of this complaint, which is a complaint about PRAC.

The ICO explains that when an address link is created, the CRA will record the source of the link so they should be able to see exactly when and why the address link was created and therefore 'break' any inaccurate links. The ICO therefore says an individual should contact the CRA if there is an error about an address link.

On balance, I think it was reasonable for PRAC to rely on Company B's information about the debtor, which was then reported to the CRA's. While I understand Mr J and his father's annoyance that the link was not severed at the same time as the account was removed, in the circumstances I've not seen enough to persuade me PRAC should have instructed removal of the link at the same time. It appears more likely than not PRAC were reliant on the information supplied to them by Company B.

Reporting accurate data

In the recent submissions, Mr J's father queried how accurately PRAC was in fact reporting the debt in question given the payments that were made towards it by the actual debtor and the amount of the outstanding balance being reported.

I've noted Mr J's father's points, and while I believe his intention is to illustrate PRAC's reporting of the debt was generally poor, it's been established this debt does not belong to Mr J so there is nothing to put right here for Mr J. And it is not for this service to fine or punish a business, so I've not considered this any further.

Impact

I've considered what Mr J's father has said about Mr J's other short-term loans not being the problem with obtaining credit.

My provisional findings were that the complaint should not be upheld, therefore there was nothing for PRAC to put right. My comments regarding the 2014 loan being unlikely to have been the sole cause of Mr J's mortgage application or other credit being declined were only meant to put forward the possibility, and offer Mr J some reassurance, there may have been other reasons for any request for credit being declined, so it may not have been solely due to the 2014 loan.

As I've decided Mr J's complaint should not be upheld, there is nothing for PRAC to put right here.

My final decision

I do not underestimate how important this matter has been for Mr J and his father to resolve and I realise my findings will be a disappointment to them. But for the reasons above, my final decision is that Mr J's complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 25 April 2024.

Kristina Mathews
Ombudsman