

The complaint

Mr B complains Town & Country Legal Services LLP (T&C) didn't independently verify they were collecting a debt he owed – when actually the debt was fraudulently taken out in his name.

What happened

A loan was taken out using some of Mr B's details for £5,000 with another company I'll refer to as M. They asked T&C to collect on the outstanding debt after it seemingly fell into arrears and was defaulted.

Mr B thinks a company regulated by the Financial Conduct Authority (FCA) should have more stringent checks in place before contacting someone to request payment of a debt. Mr B says T&C haven't independently verified he owes anything and says they're aiding and abetting fraud as a result. He said they offered to provide information they held, and when asked, then said they didn't have anything.

In a response to Mr B's concerns, T&C said they're a third party and acting as an administrator on his account. They said M had decided the account wasn't fraudulent and had asked them to continue collecting on the debt. In terms of the information Mr B had asked for, they said they didn't hold it – and he should contact M directly for this. Overall, they felt they'd treated Mr B fairly and didn't think they'd done anything wrong.

Unhappy with this Mr B asked us to look into things saying T&C had breached some of the FCA's rules.

One of our Investigators did so but didn't think T&C had done anything wrong.

Mr B didn't accept this, so the complaint's been passed to me to decide.

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 think it's important to firstly explain I've read and taken into account all of the information provided by both parties, in reaching my decision. I say this as I'm aware I've summarised Mr B's complaint in considerably less detail than he has. If I've not reflected something that's been said it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint. This isn't intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a fair and reasonable outcome is. This also means I don't think it's necessary to get an answer, or provide my own answer, to every question raised unless I think it's relevant to the crux of the complaint.

What is T&C responsible and not responsible for

T&C are acting as a debt collector – this does limit the responsibility they have somewhat:

- They're expected to ensure they have a reasonable belief the person they're contacting to repay the debt is the correct person.
- They can't ignore a comment from someone they're contacting that the debt is in dispute and it's not actually owed by that person.
- There isn't any expectation I'm aware of for a debt collector to take detailed steps to verify the debt isn't fraudulent before starting debt collection activity.
- There isn't any expectation for them to have received copies of all of the paperwork in relation to the debt before asking the individual to start repaying the debt

At its core, a debt collectors' role is to take steps to obtain payment of the outstanding debt.

Mr B has explicitly referred to two parts of the Consumer Credit Sourcebook (CONC) in the FCA's Handbook.

CONC 7.5.2 says:

A firm must not pursue an individual whom the firm knows or believes might not be the borrower or hirer under a credit agreement or a consumer hire agreement

And CONC 7.5.3 says:

A firm must not ignore or disregard a customer's claim that a debt has been settled or is disputed and must not continue to make demands for payment without providing clear justification and/or evidence as to why the customer's claim is not valid.

I've taken these into account when deciding the outcome of this case – and overall I'm required to decide things on a fair and reasonable basis.

How have T&C dealt with Mr B's claims the account is fraudulent

Many of the concerns Mr B has raised are the responsibility of the owner of the account – in his case, M. I understand Mr B strongly disputes that he's responsible for this debt or took it out – but the only party who gets to decide that in his case is M – because they own the account.

I can't comment on whether T&C are aiding and abetting fraud – as I suspect that'd be some form of criminal activity – and I can't make this kind of a finding only a court could. But, what I can say is I don't think T&C have treated Mr B unfairly regarding this issue.

Our Investigator listed out all of the dates, so I won't do the same here – but when Mr B disputed the debt T&C put the debt collection activity on hold as I'd expect and in line with CONC 7.5.3. They also raised Mr B's claims the account was fraudulent to M – again as I'd expect. In the circumstances, T&C couldn't do anymore – as they're simply not responsible for the account existing or the determination of whether it's fraudulent or not.

Every time Mr B disputed the debt with T&C, it raised this with M. And M told T&C they'd decided the account wasn't fraudulent. M also asked T&C to resume contact with Mr B about asking for payment of the debt.

I think it'd have been helpful if T&C had told Mr B that, but as M did, I'm satisfied Mr B wasn't disadvantaged by this error of T&C's. So, although I think T&C did breach CONC 7.5.3 I don't think this has had any material impact on Mr B – because he already knew M had decided the account wasn't fraudulent.

Should T&C have done more regarding the initial data

Mr B says the data of who took out the account very obviously differs from his details – so T&C have been negligent in contacting him before dealing with this issue.

T&C say it's M's responsibility to check if they're satisfied the data is reasonable to rely on or not.

In Mr B's case, I'm satisfied T&C have acted fairly. They were provided data, which meant they contacted Mr B. The data came from the account owner M – and although Mr B has subsequently disputed that data, I wouldn't expect T&C to have been aware of that at the time. So, in line with CONC 7.5.2, I can't see anything to reasonably suggest T&C shouldn't have contacted Mr B.

Why didn't T&C have the data Mr M asked for

When being contacted, Mr B has asked for:

- Loan documents
- All documents used for identity verification purposes
- Sort code, account number and name of account holder along with date of transfer
- Details of all communication from lender to borrower

None of these documents were provided to Mr B by T&C – and he says they should have had them.

As a starting point, I wouldn't expect T&C to hold these documents – as none of them are required for the purposes of debt collecting.

Here, I can see when Mr B asked for this information he was referred back to M to gather it. I don't agree with Mr B that T&C had to supply this to him.

Ultimately, I can see Mr B did do a Data Subject Access Request (DSAR) to M – and this DSAR provided him with some of the information he'd asked for. But, regardless, this wouldn't be T&C's responsibility to provide to him, because they're not the owner of the account so I'm satisfied they didn't do anything wrong on this point.

My final decision

For all the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 January 2025.

Jon Pearce
Ombudsman