

## **complaint**

Mr F complains that Lowell Portfolio I Ltd has wrongly registered a default on his credit file.

## **background**

Late in 2014, Lowell purchased a debt that Mr F owed to a credit card company. Mr F said he didn't owe that money, so Lowell sent Mr F copy of the agreement with that credit card company that Mr F had originally signed.

Lowell said that it had tried to contact Mr F after 2014, but he didn't respond. In 2017, it got a query from a credit reference agency, saying that Mr F had disputed the debt.

Lowell sent its copy of the agreement to Mr F again. Mr F said that the agreement Lowell had sent him wasn't the original, so it didn't prove anything. He said it wasn't his debt.

Lowell said that the account had Mr F's details, and it had been open and active for some time with correspondence being sent to Mr F. The credit agreement had Mr F's signature. So Lowell thought that this account was Mr F's, and any debt on the account should be paid by him. But Lowell said it had taken a decision to no longer contact Mr F to ask him to pay the debt.

Mr F also wanted Lowell to remove the default from his credit file. He said that by not doing so, Lowell was causing him harm and loss, and it would have to pay for that.

Lowell showed this service a copy of the agreement that Mr F had originally signed, and the letter it sent to him to tell him that the credit card company had sold his debt to it.

Lowell said that the default on Mr F's credit file would've been recorded by the credit card company it had bought the debt from. When it bought the debt, the name would be changed to show the money was owed to Lowell.

Lowell said that if Mr F paid the money owing then it would tell the credit reference agencies that the default was satisfied, and they should show a zero balance on the account. It wouldn't remove the default.

Our investigator didn't uphold this complaint. She said that our service doesn't have the power to declare an agreement legally enforceable or otherwise. Only a court of law can do this. But she said we can take the view on whether a lender is acting reasonably where, on the face of it, the debt looks like it might be unenforceable.

But she didn't reach the view that this was an agreement that looked like it might be unenforceable. And she said Lowell had been able to provide a copy of the signed agreement form with Mr F's name and current address stated on the agreement. As the owner of the account it had the responsibility to report a true and accurate reflection of the account's status to credit reference agencies. She didn't think Lowell had been unreasonable in asking for a payment for the account or continuing to report the default.

Mr F didn't agree with that. He said he'd never been sent proof that the debt had been assigned to Lowell or how much it had paid for it. He said a court would ignore Lowell's claim without proper documentation, and he thought we should too. Because Mr F didn't agree with our investigator, the case was passed to me for a final decision.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've reached the same conclusion as our investigator, and for broadly the same reasons.

Mr F says this isn't his debt. He says that Lowell has to prove it is. But I think Lowell has done a considerable amount to show that this is Mr F's debt. It has shown that the account was held in his name, at his address. The account was open for three years. During this time, the card was used, and the statements were sent to Mr F at his address. Someone responded to those statements by making payments onto the account. And Lowell said that the signature on the agreement matched the signature on letters that Mr F had sent to Lowell. For all these reasons, Lowell thought that this account was Mr F's, and any debt on the account should be paid by him. I think that is a reasonable conclusion for Lowell to have reached on this evidence. I don't accept that this isn't Mr F's debt.

Mr F said that the documents he had seen were all copies. I understand that Mr F doesn't think that the agreement he has been shown is valid for this reason. He says a court of law would ignore those, and this service should too.

I do have to take the relevant law into account when I take a decision. But I have to base my decision on what is fair and reasonable. And in this case, even if the relevant law did say that copies wouldn't be accepted by a court, I still don't think it would be reasonable for me to tell Lowell that it can't enforce this debt, or that it must remove the default on Mr F's credit history, just because it hasn't shown us or him his original credit agreement.

Mr F also said that Lowell hadn't shown him proof that the debt had been assigned to it. But Lowell wrote to him in 2014, explaining that this is what had happened. Mr F would like to see a deed of assignment. But again, I don't think that it would be reasonable for me to tell Lowell that it can't enforce this debt, or that it must remove the default on Mr F's credit history, because it hasn't shown us or him a deed of assignment.

Mr F has also said that Lowell hadn't told him how much it had paid for his debt. I don't think Lowell has to do that. Lowell has said that it can't tell him exactly how much it paid for his debt, because it bought a number of debts at the same time, and it doesn't have an individual value for each one. I think that is a reasonable response for Lowell to have made.

I've considered what Mr F has said carefully. But I think it is more likely than not that Mr F does owe this money, and that the debt has been sold to Lowell. Because of that, I don't think that Lowell has done anything wrong. I understand that Lowell has decided not to actively pursue this debt any more. But I don't think it has to remove the default from Mr F's credit record.

I know Mr F will be disappointed, but I don't think this complaint should be upheld.

**my final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 9 April 2018.

Esther Absalom-Gough  
**ombudsman**