

complaint

Mr W has a number of complaints against T.B.I. Financial Services Ltd. He complains about its solicitors, that it failed to investigate his complaint, hasn't accounted for all the money he has paid, is making him pay more than he can afford and has not sent him a signed copy of the credit agreement. He wants the debt balance written off.

background

In May 2005 Mr W entered into a credit agreement with a third party, borrowing just under £14,000. The account got into arrears and was sold to T.B.I in November 2007. Payments were made via Mr W's debt management company, which subsequently went into administration and payments were not made. In summary, Mr W says T.B.I hasn't accounted for all the payments he made and is making him pay more than he can afford. He says there is no signed copy of the credit agreement so it is not enforceable. He also complains about T.B.I's solicitors and the way his complaint has been investigated.

In response, T.B.I says it doesn't have a signed copy of the credit agreement, which is not unusual, but it does have a copy of the agreement and notes that Mr W doesn't dispute that he borrowed the money and still has a debt. It based the payment plan on an income and expenditure statement provided by the debt management company. It advised him to approach the Financial Conduct Authority regarding the failed debt management company. It is not prepared to write off the debt.

The adjudicator did not uphold the complaint.

enforceability

She said this service couldn't comment on whether the debt was enforceable due to the lack of a signed credit agreement. This would be for a court to decide. But that as he was not disputing he had received the money, it should be repaid.

payment arrangements

Regarding the payment arrangements, she said solicitors were involved because the debt management company failed to make the payments as it ceased trading. The solicitors worked in house for T.B.I and it was not unreasonable for solicitors to contact him. She noted that Mr W was paying £100 a month until early 2015, but then wanted to pay £10 a month. It was not unreasonable for T.B.I to ask Mr W to fill in an income and expenditure from which he had failed to do. By asking him to do this T.B.I was acting sympathetically and positively as it is required to do.

debt management

The adjudicator noted that the debt management company was now in receivership. This was not T.B.I's fault and Mr W needed to contact the administrators about this.

She was not prepared to ask T.B.I to write off the debt or pay any compensation as it has not done anything wrong.

Mr W was unhappy with this view. He does not feel T.B.I properly investigated his complaint. He is no longer working so is unable to repay the debt. He is not prepared to pay any more money and says the originally lender loaned him more than he needed. Furthermore the solicitors involved in the case are fraudulent.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I agree with the adjudicator for much the same reasons.

enforceability

Unfortunately, there is no copy of the signed credit agreement and Mr W now says the original lender made him borrow more than he needed. This is not an issue that has been raised before in this complaint and concerns the original lender not T.B.I. This is not something that I can look at in this complaint. This is an issue that Mr W needed to raise at an earlier point with the original lender.

Only a court can decide if the agreement is enforceable and Mr W will need to go to court if he wants to dispute enforceability. Mr W does accept that he received a loan (although says it was for more than he required) and did have the benefit of the money. I make no findings about enforceability, but it is not fair and reasonable for me to require T.B.I to write off the debt as Mr W received the money.

solicitors

Mr W says T.B.I's solicitors are sending fraudulent letters. This is not an issue this service can consider. If Mr W has a complaint about the conduct of solicitors or believes the solicitors to be acting dishonestly then he needs to complain to the relevant regulatory body.

I find it was not unreasonable for T.B.I's solicitors to contact him about the debt as after the debt management company went into administration as payments were not made.

payment arrangements

Mr W paid nearly £100 a month through the third party debt management company until March 2015. Unfortunately, this went into administration, and from July 2015, Mr W offered to pay £10 a month. Mr W doesn't feel that T.B.I has treated him fairly around future payments. I find T.B.I has treated him fairly. T.B.I must act positively and sympathetically to a customer in financial difficulty. The previous payment arrangement was made following completion of an income and expenditure form. T.B.I has now asked Mr W to complete a new income and expenditure form, which he has refused to do. I find it is not acting unreasonably by asking Mr W to do this, or by expecting him to pay more than £10 a month. I note that now Mr W says he will pay nothing, as he has lost his job and unfortunately suffered a recent bereavement. I urge Mr W to complete an income and expenditure form so a payment plan can be worked out.

debt management company

It is very unfortunate that the debt management company went into administration. Mr W believes that not all the money paid has been accounted for. This is not T.B.I's fault and it cannot be held responsible for the failure of another company. I would urge Mr W to contact the administrators or Financial Conduct Authority to try to recover any money.

complaint

Mr W doesn't believe T.B.I has handled his complaint properly. But from the correspondence I have seen, it appears to have responded to all his complaints and tried to address them.

For the above reasons, I do not uphold this complaint and make no award or order against T.B.I.

my final decision

My Final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 29 March 2016.

Clare Hockney
ombudsman