

## **complaint**

Mr S complains about the sale of a debt he owed to Asset Collections and Investigations Limited (ACI). He says ACI failed to conduct due diligence before it bought his debt.

## **background**

Mr S took out a loan in January 2015 with a third party, L. He missed some repayments and L sent him some arrears notices. However, one of these notices incorrectly referred to the amount of the arrears outstanding in a box when it should have set out the total amount Mr S owed to L. Mr S says L is in breach of the Consumer Credit Act 1974 (CCA) and the debt should be written off as a result of this error. Mr S has complained about L but that complaint is being dealt with separately.

Mr S's loan was sold on to ACI in July 2017. In relation to ACI, Mr S says:

- ACI failed to conduct due diligence before it bought his debt from L to check that all information was given to ACI from L but also that L had fully complied with the CCA.
- He's unhappy with how ACI handled his complaint – it failed to put his account on hold or open a complaint for him when it said it would.
- He'd like the debt written off or returned to L.

ACI says it carry out due diligence when buying debts and set out what this might include. It says it's satisfied this meets its regulatory requirements. In response to Mr S's other complaint point, ACI says:

- Mr S contacted ACI in July to let it know he had an issue with one of the notices sent by L. He told ACI that he'd brought a complaint about this against L to our service.
- Mr S was told his account would be put on hold until his complaint against L was resolved. However, Mr S was phoned just over a week later by ACI about the debt.
- Mr S asked it to raise a complaint about this but ACI failed to do so.

ACI says its willing to offset £100 against the debt Mr S owes to compensate him for its mistakes here.

Mr S wasn't satisfied with ACI's response and brought his complaint to our service. He says ACI should be required to prove it carried out due diligence in his case. And he's unhappy that ACI has said it'll offset any compensation due to him against the debt he owes.

Our investigator didn't recommend that this complaint should be upheld. He explained that:

- Mr S's loan agreement states that, if there are missed payments, his account may be placed with a collections agency or sold to a third party.
- ACI weren't obliged to give further evidence about the due diligence it'd carried out.

In relation to the poor complaints handling, our investigator explained this wasn't something our service could look at. This is because our service was set up to consider complaints about regulated activities. And complaint handling isn't deemed to be a regulated activity.

Mr S was unhappy with this. He says ACI has failed to explain or defend the incorrect notice sent to him by L and didn't respond to him within the eight weeks it had to do so. The matter has now been passed to me for a 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. Although a number of issues have been raised, this decision only addresses those issues I consider to be materially relevant to this complaint. However, I've given careful consideration to all of the submissions made before arriving at my decision.

Having done so, I have to tell Mr S that I think the adjudicator has reached the right outcome here. I don't uphold his complaint against ACI. I think the adjudicator has set out the position clearly so I think there's not much I can usefully add to what the adjudicator's already said to Mr S. I would just make the following points.

Mr S says the incorrect arrears notice means that his debt should be written off. He's made a separate complaint to L about this which is being considered by our service. If the outcome of any such complaint is that the amount Mr S owes should be lower, ACI will need to make an adjustment to the balance on Mr S's account. But I think it's reasonable for ACI to rely on the information it's given about the debt from L. And I haven't seen any evidence which suggests that ACI did something wrong when it bought Mr S's debt. So I don't think it'd be fair or reasonable for me to require it to write off the debt or return it to L.

The nature and extent of the due diligence carried out before a company like ACI buys debts is a matter for the debt purchaser and its regulator. Whilst Mr S may feel that his debt should be written off by L due to an error on one of the arrears notices, I don't think this necessarily means that ACI failed to carry out an appropriate level of due diligence. Even so, this wouldn't be something our service could consider.

Turning to the £100 ACI has offered to offset against Mr S's debt. Unfortunately, the way that ACI handles complaints isn't something that this service can look at unless it's ancillary to a regulated activity. The initial contact made by Mr S with ACI was to let it know he had a dispute with L and ask that it put his file on hold until this had been resolved. ACI failed to do this and didn't raise a complaint about it when Mr S asked it to. It's this failure that ACI has offered him £100 for. But I don't think this is a regulated activity or ancillary to his later complaint that ACI had failed to carry out sufficient due diligence when buying his debt. So I'm afraid to tell Mr S that I think our investigator is right here – we can't look at how ACI handled this particular issue.

I've thought about Mr S's comment that ACI didn't respond to him within the eight weeks it had to do so. But I don't think ACI has done anything wrong here. ACI issued its final response and referred him to our service within a month of Mr S raising his concerns about ACI's due diligence checks. So I don't think it needed to send updates or further letters to Mr S after this.

I note that ACI said it was waiting to hear from L about the complaint Mr S had raised about the notice L had sent him. I can understand Mr S found this frustrating. However, given the connection between these two complaints, I don't think that was unreasonable. And I don't think ACI was suggesting that the outcome of Mr S's complaint against ACI depended on the outcome of his complaint against L. Instead, I think ACI was referring to the fact that it might need to adjust his account balance if it was found that it should be lower as a result of his complaint against L.

I know that Mr S will be disappointed with this outcome but my decision brings to an end what we – in trying to resolve his dispute informally with ACI – can do for him.

### **my final decision**

For the above reasons, I don't uphold Mr S's complaint against Asset Collections and Investigations Limited.

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

Rebecca Ellis  
**ombudsman**