complaint

Mr D complains that Lowell Portfolio I Limited ("LPL") is unfairly pursuing him for a debt.

background

Mr D had had a current account since 1999 and a loan of £15,000 since 2007 with a bank ("Q"). The current account became overdrawn and Mr D stopped payments on the loan in early 2008. Q then moved the loan balance to the current account in March 2008. Q sold the account to LPL in December 2012, and LPL asked Mr D to pay the total amount then owing of £15,765.23. Mr D asked LPL for a copy of the credit agreement and a breakdown of the debt, but despite his requests, he does not believe it has produced these. Mr D feels that the debt is unenforceable because LPL has not provided these in breach of the Consumer Credit Act 1974, and he complains that LPL should stop chasing him for payment.

The adjudicator concluded that LPL's offer to pay Mr D £75 for its failure to provide a breakdown of the outstanding balance was fair and reasonable. He noted that whilst Q was unable to provide a copy of the credit agreement, it had provided a copy of Mr D's original current account application form. He had also seen Q's internal screen prints which showed the £15,000 loan being paid into Mr D's current account. So he was satisfied that LPL had been trying to recover a legitimate debt from Mr D. He also said that if Mr D believed that the debt was not enforceable, he should raise this in court if LPL took legal action against him to recover the debt. He explained that issues of debt enforceability can only be determined by a court of law.

Mr D disagreed and responded to say, in summary, that:-

1. It was misleading for LPL to have said that it had sent him the original signed contract for the debt, when it had not;
2. He was only willing to accept LPL's offer of £75 compensation if it stopped its debt collection activities until it was able to provide a proper, correct and full breakdown of the alleged debt; and
3. LPL's debt collection letters were unfair as they contained threats which could not be carried out as the debt was unenforceable, and so they should not have been made. He wished to pass his concerns to LPL's regulator to ensure that it follows the debt collection guidelines.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I can see that Mr D first asked for a copy of the credit agreement and a breakdown of the amount owed in April 2013. I can see that LPL supplied a copy of Mr D's signed current account application dated May 1999 to Mr D in September 2013. I have seen Q's internal screen prints which show Mr D's current account and loan account payment details. I can see that the loan of £15,000 was made to Mr D in June 2007 and I can see that the proceeds were put in his current account. He then made some repayments on the loan, but the last contractual repayment was made in February 2008. Q then moved the loan account balance to Mr D's current account in March 2008, and it was the merged current account balance debt that was sold to LPL in 2012. So, I am not persuaded that it was inappropriate

for LPL to have sent the current account application to Mr D, and to have referred to it as the original credit agreement for the debt it had bought from Q.

I can also see that Mr D would have been unhappy that he did not receive an explanation from LPL of the breakdown of his debt, and I consider that it could have sent him more information to clarify the account balance. Mr D has been offered £75 compensation for the trouble and upset arising from Q's failure to provide this, and I consider that this is an appropriate amount.

But Mr D said that he would only accept LPL's offer of £75 compensation, if it stopped its debt collection activities until it was able to provide a proper, correct and full breakdown of the alleged debt. Whilst Mr D refers to the debt as the alleged debt, I have seen that the debt with Q appeared on a list of Mr D's debts compiled by a debt charity in 2008. I note that Mr D offered to pay a reduced monthly payment to Q for the debt in June 2008. I have also not seen any suggestion that Mr D believes that he did not apply for the loan that gave rise to this debt. I also note that LPL sent Mr D an annual statement in March 2014. So, I am satisfied that the debt is legitimate and that LPL is entitled to ask Mr D to make repayments to it in accordance with the relevant guidance and regulations.

I also note that Mr D said that LPL's debt collection letters were unfair as he believes that they contained threats which could not be carried out, as the debt was unenforceable. But, as only a court can determine whether the debt is unenforceable, I cannot say whether the letters were unfair.

Mr D would also like his concerns passed to LPL's regulator. This service does not supervise, regulate or discipline the businesses we cover and we have no authority to impose punitive damages or to require a business to alter its systems. So, Mr D should contact LPL's regulator, the Financial Conduct Authority, about his concerns over LPL's debt collection practices.

So, after taking into account the underlying causes of the complaint and all available submissions, I consider that a payment of £75 compensation by LPL for the distress and inconvenience caused to Mr D is fair and reasonable in the circumstances of this complaint.

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of it, I order Lowell Portfolio I Limited to pay Mr D £75 compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr D to accept or reject my decision before 7 April 2015.

Roslyn Rawson
ombudsman