

complaint

Mr L complains that Lowell Portfolio I Ltd (Lowell) applied a default on his credit file without letting him know beforehand.

Mr L wants compensation for this and for the default to be totally removed from his credit file history.

background

I issued a provisional decision in this matter in March 2016 explaining why I was intending to uphold Mr L's complaint. A copy of my provisional decision is attached and forms part of my final decision.

I asked both Mr L and Lowell to provide me with any further comments and evidence they would like me to consider before I reached my final decision.

Mr L accepted my provisional decision. Lowell provided further comments and I've considered these below.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've decided to uphold Mr L's complaint.

Lowell didn't agree with my provisional decision. In summary, they explained they have a robust process which involves pre-purchase analysis of account data from a debt seller. And that the seller would've confirmed that they originated the default entry with the relevant Credit Reference Agencies (CRAs) in accordance with the debt sale data provided.

I appreciate what Lowell say and why they reported the information as they did. But from everything I've seen, the debt that the default information related to had been disputed by Mr L before it was sold on to Lowell. So I think Lowell should've been aware of this dispute – which eventually resulted in the removal of the default entry - when they carried out their checks. The fact that they weren't made aware of this despite their processes, is something which they can take up with the seller.

I accept that the default entry date came from the seller, but from the copies I've seen of Mr L's credit files, it seems that the original lender hadn't reported the default and that it appeared on Mr L's credit file once Lowell had purchased the debt. I note that Lowell searched Mr L's credit file and so I think they should've been aware that the default information didn't appear on the credit file before they reported it. I think the fair thing would've been for Lowell to let Mr L know how they were reporting the information. And as mentioned in my provisional decision, industry guidance also says that in all instances, consumers should be told whether and how information will be reported on their credit file. If Lowell had let Mr L know what information would appear on his file, Mr L could've alerted Lowell to the dispute about the debt and Mr L would've had the opportunity to challenge it before it appeared on his credit file. And I think this is what the guidance intended.

It follows that I uphold Mr L's complaint.

my final decision

I uphold Mr L's complaint against Lowell Portfolio I Ltd and require them to pay Mr L £100 in compensation for the distress and inconvenience caused to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 9 May 2016.

Navneet Sher
ombudsman

copy of provisional decision

complaint

Mr L complains that Lowell Portfolio I Ltd (Lowell) applied a default on his credit file without letting him know beforehand.

Mr L wants compensation for this and for the default to be totally removed from his credit file history.

background

Mr L had an account with a third party. The third party informed Lowell that there was a debt outstanding on the account and they sold the debt to Lowell in June 2015.

Mr L says that he was first contacted in 2014 about this debt and advised those contacting him that he believed that the account the debt related to formed part of his insolvency proceedings in 1999. He then says he hadn't heard anything further about this debt until he received a letter from the third party in April 2015. He spoke to them a few days later and explained the situation. He says the third party then told him that they would not be pursuing this debt. Mr L says he has no idea how this debt has come to be.

Despite being told that the debt wasn't going to be pursued, the third party sold the debt to Lowell. Lowell then applied a default on Mr L's credit file which dated back to May 2013, based on the information provided by the third party. Mr L says Lowell didn't contact him to let him know that this is what they were going to do.

Our adjudicator doesn't think Mr L's complaint should be upheld because she doesn't think Lowell did anything wrong. She thinks Lowell bought the debt in good faith and relied on the information provided by the third party.

Mr L didn't agree with our adjudicator and the complaint has now been passed to me to consider.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I appreciate that Lowell bought the debt from the third party in good faith. But Lowell were responsible for reporting accurate information to the credit reference agencies. As it happened, the debt had been disputed and the third party had agreed to not pursue the debt. So it shouldn't have appeared on Mr L's credit file. Lowell have now corrected this by removing the default.

But I can't see that Lowell did contact Mr L about registering a default on his credit file. Industry guidance relating to the reporting of defaults on credit files says that in all instances the consumer should be told whether and how the information will be reported on their credit file.

Even aside from the guidance, I don't think it's fair that a default was applied to Mr L's credit file without his knowledge. As without being informed, he couldn't challenge the default or try and make the payment if that had been the case.

I appreciate that this has caused Mr L distress and inconvenience. I can see that Mr L's credit score was reduced because of the incorrectly applied default and I think Lowell should pay Mr L £100 in compensation to put things right.

I understand that Mr L wants the default to be totally removed from his credit file. I've seen a copy of Mr L's credit file (January 2016) and can see that the default no longer appears on it.

So I'm not asking Lowell to do anything further in relation to this.

I also note that Mr L has concerns about how this debt ever came to be and about the notice of assignment. I think these issues should instead be taken up against the third party and I understand that Mr L will be making a complaint to them.

my provisional decision

I propose to uphold Mr L's complaint against Lowell Portfolio I Ltd and intend to ask them to pay Mr L £100 in compensation.

I now ask Lowell Portfolio I Ltd and Mr L to provide me with any further comments and evidence they would like me to consider by 11 April 2016 after which I will issue my final decision.

Navneet Sher
ombudsman