

complaint

Mr C complains that Lowell Portfolio I Ltd (the business) did not carry out sufficient due diligence before pursuing him for a debt that wasn't his.

background

Mr C says that the business did not undertake due diligence on a debt it received from another entity. He says that notification of the debt was sent to his home address in September 2015 but as he lives and works abroad he did not receive this. He says that the business then started to call about the debt and threatened court action. He says that a family member received these calls and decided to pay the debt.

Mr C says he wrote to the business in November 2015 after which the business accepted the debt was not his and said it would send a cheque to refund the payment made. He says there was a long delay before this cheque was received and that this had to be chased.

The business says that it bought the debt in March 2014 and was provided information about the account holder by the former owner. It says that this information was used to undertake a tracing procedure using a credit reference agency (CRA). This did not provide the business with a current address.

In September 2015, it says a further tracing procedure took place and the CRA provided Mr C's address. It says it wrote to Mr C to confirm that the information it had was correct. It did not receive a response and so two further letters were sent about the outstanding debt. It says it then received a call from an unknown person who said they were a family member of Mr C's and that they wanted to pay the full amount of the debt. This happened and Mr C was sent a letter confirming the account was closed. It then received emails from Mr C and sent its final response on 11 February 2016.

The business says it purchased the debt in good faith and had no way of knowing the account had been set up fraudulently.

The adjudicator was satisfied that the business had carried out due diligence on the account and that it believed it was contacting the right consumer. She said that the business had acted reasonably by refunding the money paid by Mr C's family member and that it was not unreasonable that the refund was made by cheque.

Mr C said that although the business said it had sent three letters there was no evidence these had been received. He said that the calls made were intimidating and that was why his family member decided to make the payment. He said that the business did not carry out due diligence before pursuing him wrongly for this debt and that there was a long delay before the refund was received.

my findings

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

My role is not to punish the business but where a mistake has been made to ensure that the customer is put back in the position he would have been had the mistake not happened and, where appropriate, award compensation.

I understand Mr C is upset by the actions not only of the business but also of the previous debt owner and that he wants compensation for both his time and the cost and upset caused to his family member. However this complaint has been brought against the business and so my decision is limited to the actions of the business. Also, I can only consider complaints brought by eligible complainants. Mr C is the eligible complainant in this case and I can not award compensation for trouble and upset caused to another party.

In this case Mr C was contacted by the business about a debt that was later found to not be his. I appreciate the upset this has caused but I need to consider whether the business acted reasonably by contacting Mr C.

I appreciate Mr C's comments about due diligence. However, I accept that the business acquired the debt in good faith and then acted reasonably by using the information it had received to perform a tracing procedure. I accept that at this time there was nothing to suggest to the business that the debt was the result of fraud.

The trace carried out in September returned Mr C's address. The trace matched his name and date of birth. At this stage the business wrote to Mr C to confirm the information it had was correct. I understand Mr C was away and so did not receive this letter. However I find that the business acted reasonably by writing to Mr C about the debt in order to confirm the details. It then sent two further letters which I understand Mr C says he didn't receive, however having seen copies of these I find it more likely than not that these were sent.

I appreciate that the calls received by Mr C's family member caused upset. However given the business had not received a response to its letters, I do not find it unreasonable that it made the calls. Payment was then made.

On balance, I do not find that the business acted unreasonably by contacting Mr C about the debt.

After Mr C had contacted the business and further checks were carried out it was found that the debt was not Mr C's. I find that the business acted reasonably by confirming in an email dated 12 November 2015 that the money paid by Mr C's family member would be refunded via a cheque.

I appreciate that the cheque took time to arrive and that Mr C's family member had to pay interest on his credit card payment. However I can only consider compensation for eligible complainants, in this case Mr C.

The debt has been taken back by the previous owner and it has been acknowledged that it relates to an account that was set up fraudulently. I am not aware of any adverse information recorded on Mr C's credit history.

Based on the evidence provided I do not find that the business acted unreasonably. Because of this I do not require the business to do anything further to settle this complaint.

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 C to accept or reject my decision before 6 June 2016.

Jane Archer
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