Financial Ombudsman Service

complaint

Mr T complains that Youth Enterprise Cic gave him incorrect information about a loan when it acted as his credit broker.

background

I set out the background to Mr T's complaint in my provisional decision. In it I said that I thought it more likely than not that Mr T had been given inaccurate information about the loan which he'd relied on. I said it was fair and reasonable therefore that Mr T should no longer be responsible for the loan and should be treated as if he'd never taken it out. I also said his credit file should be updated to reflect this.

I also asked YEC to refund the loan repayments Mr T had made.

YEC responded to say that as a goodwill gesture it would settle the outstanding balance of the loan and amend Mr T's credit file to remove all references to the loan. But it declined to refund the repayments saying Mr T had benefitted from the loan and it wasn't prepared to go any further.

Mr T declined YEC's offer. He reiterated his earlier points. He asked for compensation and he also expanded on what he'd already said about the information that YEC had submitted on his behalf to the lender. And he asked that his loan repayments be refunded

my findings

I thank both Mr T and YEC for their replies. I've re- considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

It seems everyone now agrees that the outstanding balance of the loan should be settled by YEC and that it should make sure that all references to the loan are removed from Mr T's credit file. It seems that the lender has agreed with YEC it will do this updating of the credit file. It is the only one that can currently do this as it owns the debt. But as the lender is not a part of this complaint I cannot compel it to do this. So I've written my award to cover the possibility that YEC has to buy the loan in order to be able to update Mr T's credit file. Or if it has to help him ask the lender to remove the information about the loan on his credit file.

So the only outstanding points are about the refunds of the loan repayments he made and compensation for distress and inconvenience.

I think Mr T would never have taken out the loan if he'd known all of the relevant circumstances. And whilst it's correct that he has used some of the money as YEC says, I think the point is he'd never have done this but for what YEC told him. I think it is fair and reasonable therefore that he should get back all of the repayments he made with interest.

I can see that Mr T is upset by what's happened. But the main thrust of his complaint has always been about the worry he's been put through because he had a loan he didn't want, couldn't afford and was being chased to pay. That worry will now be removed.

That said, there has been a fair bit of correspondence going back and forth between Mr T and YEC. Whilst some of this was necessary to try and sort out the complaint I do think some of it would've caused him some unnecessary inconvenience. I think £150 is a fair award for this.

my final decision

My final decision is that Youth Enterprise Cic must:

- Buy the loan from the lender. And then write it off. It should also amend Mr T's credit file to remove any information that may have been registered on his credit file about the loan.
- If it's not possible to buy the loan because that's not possible under the terms and conditions of the loan then YEC must pay off the loan in full including any charges or fees that have been added to the loan by the lender. If this happens Mr T may need to raise a complaint against the lender to try to get his credit file updated. If this happens YEC must reasonably assist Mr T with this. And it must pay any reasonable costs Mr T runs up in trying to sort this out.
- Refund all of the repayments Mr T made to the loan. It must add interest to these repayments at the rate of 8% simple per year. The interest to run from the date Mr T made the repayment to the date he receives the settlement.
- Pay Mr T £150 for inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 8 February 2016.

Joyce Gordon
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