

complaint

Mr T complains that Paragon Finance Plc trading as Idem Servicing (“Idem”) acted unfairly and unreasonably by contacting him about a mortgage shortfall debt without being willing to prove it owned the debt or explain at first why it was contacting him. He wants Idem to either prove the debt is owed to it or stop demanding payment, refund any payments made and remove any negative entries in his credit records.

background

Mr T was contacted by Idem, a business of whom he said he’d never heard, and asked to answer security questions. Mr T refused to disclose his personal data and said he kept receiving calls from Idem wanting to talk to him but saying they had to ask security questions first. Mr T wondered if the calls were about a mortgage shortfall debt he owed to another business – it turned out that the calls were about such a debt, which had been sold to Idem. Idem wanted Mr T to agree a repayment plan, but Mr T wanted to see evidence that Idem owned the debt as he was paying the debt as agreed previously.

Mr T complained to Idem. It said the original loan had been sold to another business and then later sold to Idem. Idem explained that it had been calling Mr T because there was no valid repayment plan in place; it said no money had been received for two months. It asked him to set out his income and spending so it could agree a new repayment plan. Idem said it had asked the original lender for a copy of the legal documents and would send it to Mr T when it was received (it accepted that the loan couldn’t be enforced without the documents). Idem also noted that Mr T now lived at a different address to that held by the various owners of the loan.

Mr T complained to us, and said he hadn’t stopped paying as agreed. The investigator’s view was that when the loan had been sold on, each time the businesses involved had written to Mr T explained who now owned the debt. This included letters about the sale to Idem. The investigator explained that it wasn’t the role of this service to decide if a debt was legally enforceable; our role was to decide if a business had acted reasonably. She thought Idem had acted reasonably, particularly as part of the issue about security questions was because Mr T had changed his address.

Mr T disagreed. He said he had complained because Idem hadn’t sent proof that it owned the debt, and felt this service had ignored the months of stress he had suffered. The investigator said Idem had responded to the complaint within the expected timescales and had provided evidence it had written to Mr T about the change of ownership. But she still didn’t think Idem had done anything wrong. Mr T said he didn’t get the letter until this service sent it to him and wasn’t happy with how his complaint had been dealt with by Idem.

my findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. I’m not going to deal with Mr T’s complaint about how Idem dealt with his complaint as complaints handling isn’t an activity regulated by this service.

Mr T's complaint is largely about being contacted by Idem, expected to go through security questions and not being provided with a copy of the legal agreement. It's important to note that this service isn't a court of law; arguments about the enforceability of debts are best resolved by the courts.

Idem owns the debt. It isn't unfair or unreasonable for the new owner of a debt to contact the consumer and seek to review any repayment plan in place. Indeed, it's standard industry practice to review such plans regularly, even when they're being followed. I can't say Idem acted unfairly or unreasonably in contacting Mr T, particularly as it sent a letter explaining that it now owned the debt. I accept that Mr T mightn't have received the letter as he'd moved, but that isn't the fault of Idem. Equally, it isn't unfair or unreasonable for Idem to ask security questions, particularly given data protection legislation.

This leaves the issue of whether Idem should give Mr T a copy of the legal agreement between himself and the original lender. Idem can't give Mr T something it doesn't yet hold. It has promised to send it to Mr T when it has the agreement in its possession. That isn't unfair or unreasonable.

my final decision

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 24 October 2018.

Claire Sharp
ombudsman