

## **complaint**

Mr J complains that Kapama Limited has unfairly applied a default to his credit file and applied extortionate charges to his account.

## **background**

Mr J took out several payday loans with a payday loan company, ("P"), in 2011. He was unable to pay the last loan of £150 (including a transfer charge of £19.50) by the due date in September 2011. P then took several payments from Mr J's bank totalling £170, after which Mr J believed he only owed P interest of £238.50. Mr J then asked his bank to stop payments to P.

In January 2017, Mr J noticed a default had been applied by Kapama to his credit file for P's debt, showing a balance of £751. He believes that Kapama must have unfairly added extortionate charges to his debt with P. Mr J wants the debt written off and the default removed. He said that the loan was unaffordable. He has also queried if Kapama legally owns the debt.

Kapama bought the debt from P in October 2014. As it was the new owner of the debt, its name was shown on Mr J's credit file. But, Kapama said that the default had been applied by P after the account had been defaulted in January 2012. Kapama also said that it hadn't applied interest or charges to the debt it bought from P.

The adjudicator didn't recommend that the complaint should be upheld. She concluded that the charges had been applied by P, and that Kapama hadn't charged any interest or fees. She also explained that this service didn't have the authority to say that the charges applied were unfair or disproportionate. These were a commercial decision and not something we can interfere with. And as P was now in liquidation, it would be very hard to challenge them.

Mr J disagreed and responded to say that he'd received a statement of account from Kapama, but whilst the balance due was the same as P's records, the description and amounts of some of the charges applied were different to P's records which concerned him. Mr J also questioned when the assignment to Kapama took place, as the terms of P ceasing to lend appeared to indicate that charges and interest could only be collected for loans assigned prior to 10 December 2014. He hadn't received a notice of assignment from Kapama until 20 January 2015. Mr J also queried the amount of £19.50 deducted from his loan of £150 as a transfer fee. He said he should have been charged £5 for this.

## **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 can't comment here on P's affordability assessment as this wasn't Kapama's responsibility. I am only looking here at the actions taken by Kapama.

Mr J has queried the date of the assignment of the debt to Kapama as this isn't shown on the notice of assignment. I asked the adjudicator to check this with Kapama. It said that the date of assignment was 7 October 2014. It was asked to resend the Notices of Assignment on 20 December 2014 at the request of the Financial Conduct Authority ("FCA") following their completion of the oversight, and again in January 2015 when it received additional

addresses through its trace verification processes. So, I can see that as the date of assignment was before 10 December 2014, interest and charges can be collected in line with the FCA's agreement.

With regard to the default, as it was dated January 2012 and applied by P, I can't say that Kapama should remove it from Mr J's credit file. And as Kapama is the current owner of the debt, there is nothing wrong with its name showing as the current lender on the credit file.

I can also see that Mr J was confused by the amount of £19.50 being deducted as a transfer fee by P. He referred to P's literature in which an example is given of a loan of £100 with a transfer fee of £5.50. But I can see that the credit agreement refers to a fee between £5.50 and £20 being deducted for the transfer fee. So, I can't say from this that £19.50 was deducted incorrectly, and the example provided was only an example to illustrate the total price paid for a loan of £100.

Mr J has also queried the amount of £2.50 which was deducted by P each time he applied for a loan which was then declined. I've not seen P's application terms. But, in any event I can't hold Kapama responsible for P's actions here.

I also note that some of the charges shown on Kapama's account statement are different to those shown on P's records, although the overall balance due is the same. I can see that this concerns Mr J. I asked the adjudicator to ask Kapama why the charges and interest differ from P's records. Kapama said that the interest amount on its system shows as £181, but it didn't know why the interest amount showed as £238.50 on P's records. But, it said that the balance owed of £751, was the balance shown on both P's and Kapama's records. It also noted that the difference between the attempt charges shown on its system and those shown on P's records was £45. And it offered to reduce the balance due by £45 to £706 (£751 less £45). Overall, I think that this is a fair offer for Mr J's concerns, and I'm not persuaded that it would be reasonable to require Kapama to do any more.

I realise this decision isn't the outcome Mr J hoped for and I appreciate he probably feels let down. But Mr J doesn't have to accept my decision, in which case he remains free to pursue the matter by any other means that may be available.

If Mr J is still in financial difficulties, I would urge him to contact Kapama to discuss this. I would remind Kapama of its duty to treat cases of financial difficulty positively and sympathetically.

### **my final decision**

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order Kapama Limited to reduce the total balance owed to it by Mr J to £706.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 10 August 2017.

Roslyn Rawson  
**ombudsman**