

complaint

Mr L has complained that MKDP LLP has not provided him with a deed of novation and deed of assignment for a debt. He feels this has caused him considerable stress, for which he would like to be compensated.

background

Mr L had a debt with a third party creditor, which was then passed to MKDP. He says he has not been provided with deeds of novation or assignment, despite requesting them. He also feels the debt is unenforceable and that the account was in dispute, so should not have been passed to MKDP.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I am satisfied that Mr L had been making repayments to the previous creditor, and also entered into a repayment plan with it. For this reason, I am satisfied on balance that the debt was owed by Mr L. It was then passed to MKDP.

Although I agree with Mr L that notices of novation and assignment should be provided, it is not the case that the actual deeds have to be (as these are commercially sensitive). Further, I am satisfied that a notice of assignment was sent in August 2014, together with an explanation of what the debt was for and who had passed the debt on to MKDP. Ultimately, I am satisfied that the debt is owed, and whether or not these documents have been provided has no bearing on this.

I am aware that Mr L says the account was in dispute with the previous creditor, so it should not have been passed to MKDP. I cannot make a determination on this, because this complaint is about MKDP, so I can only comment on its actions. That said, the credit agreement I have seen set out that the debt could be transferred, so I cannot see that MKDP did anything wrong in having it transferred to it.

As regards whether or not the debt is enforceable, this is a matter for the courts and not something I can comment on.

my final decision

For the reasons given above, it is my final decision not to uphold this complaint. I make no award against MKDP LLP.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr L to accept or reject my decision before 2 July 2015.

Elspeth Wood
ombudsman