

## **complaint**

Mrs L complains that Paragon Finance Plc, trading as Idem Servicing ("Idem"), shouldn't be chasing her for a debt because she thinks it's unenforceable in court. She's also unhappy they've placed a default on her credit file.

## **background**

Mrs L's credit card debt was bought by Idem in 2012. She was making payments through a debt management plan (DMP), through a debt management company (DMC), until 2017 when the DMC ceased trading.

In May 2017 she contacted Idem through a solicitors who had taken over responsibility for the DMC's accounts; I'll call them company "F". She asked for a copy of the original finance agreement. She said without this the debt wasn't enforceable.

No payments were made towards the debt whilst F disputed it's enforceability and Idem stopped it's collection process during this time. But in 2018, having received no further payments, Idem sent Mrs L a default letter and reported the default to the credit reference agencies.

Mrs L says they shouldn't have done this as they'd confirmed that without the original credit agreement the debt was unenforceable.

Idem agreed that the debt wasn't currently enforceable but they didn't think that meant they should release Mrs L from her obligations and it shouldn't prevent them trying to set up an arrangement to pay with her.

So Mrs L referred her complaint to this service. Our investigator explained that this service couldn't decide whether a loan was enforceable; that was for the courts to do. But she could decide whether Idem were being fair and reasonable when defaulting the account and as no payments had been made to the account for some time she thought Idem had fairly defaulted it. And in those circumstances they had to report the default to the credit reference agencies. So she didn't think Idem had done anything wrong.

But Mrs L did and she therefore asked for a final decision by an ombudsman.

## **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 agree with the investigator's view and for similar reasons. Please let me explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

This service isn't able to decide whether a debt is enforceable. That's for the courts to decide.

So I've thought about whether Idem have been fair in reporting the default. They were assigned the debt in 2012 and have provided a notice of assignment so it seems most likely this is Mrs L's original credit card debt. They've not received any payments towards the debt since March 2017 and have been writing regularly to Mrs L to tell her about the arrears on the account. So I think it's fair a reasonable for them to raise a default in those circumstances and they therefore need to report that default to the credit reference agencies.

I therefore don't think Idem have done anything wrong here and I'll not be asking them to take any further action.

### **my final decision**

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 2 September 2019.

Phil McMahon  
**ombudsman**