

## **complaint**

Mrs D complains that 1<sup>st</sup> Credit (Finance) Limited is chasing her for an unenforceable debt.

## **background**

Mrs D had a credit card debt. This was sold to 1<sup>st</sup> Credit in July 2012. It obtained a copy of an update to the original credit card agreement from the credit provider. This included Mrs D's signature. There was a delay in 1<sup>st</sup> Credit obtaining the first agreement, but this was eventually provided to Mrs D. 1<sup>st</sup> Credit also obtained statements for the account which showed the payments she had previously made to reduce the debt.

Mrs D says that this agreement is unenforceable, and she should not be pursued for the debt.

Mrs D brought a complaint to us to consider. She said that 1<sup>st</sup> Credit has not produced enough evidence to show that it owns the debt. Further its letters to her are threatening, and she has been given poor customer service.

The adjudicator did not recommend that the complaint should be upheld. She was satisfied that 1<sup>st</sup> Credit was entitled to ask Mrs D for payment of the debt. The adjudicator noted that 1<sup>st</sup> Credit had been able to produce the original application form, and updated credit agreement signed by Mrs D.

The adjudicator agreed that there had been some delay in giving these documents to Mrs D. This was due to 1<sup>st</sup> Credit waiting for the information from the original debt provider. The adjudicator considered that 1<sup>st</sup> Credit could have kept Mrs D better informed about the reason for the delay. The adjudicator recommended that it should pay £50 for the distress and inconvenience this had caused Mrs D.

The adjudicator did not consider that the letters from 1<sup>st</sup> Credit were threatening or amounted to harassment.

Mrs D is not happy to accept the adjudicator's recommendation. She says, in summary, that she has never received a copy of the original credit card agreement. The amended agreement provided did not contain the credit card number, and so it cannot be proved that it relates to the card in question. It does not amount to a regulated agreement under the Consumer Credit Act 1974. Finally Mrs D says that she is making repayments to the debt under duress due to the threat of legal proceedings.

## **my findings**

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

### Enforceability of debt

Mrs D has challenged the enforceability of the debt, as she says there is no valid credit agreement. That is not a matter for this service – only a court can declare a credit agreement unenforceable.

This service looks instead at what is fair and reasonable in all the circumstances of a complaint. On the evidence available, I find that 1<sup>st</sup> Credit has acted reasonably. It bought the debt, and has evidence to show that the debt is properly owed by Mrs D. For example, it

has a copy of the application form she signed in 2001 to take out a credit card. 1<sup>st</sup> Credit also has a copy of an updated credit card agreement signed by Mrs D in 2004. Further, it has a copy of the statements which recorded the payments made by Mrs D to the account from 2001 to 2012.

The original credit card provider has confirmed that it sold Mrs D's debt to 1<sup>st</sup> Credit. The lack of a true copy of the 2001 credit agreement does not stop 1<sup>st</sup> Credit from asking Mrs D to pay money owed.

I am satisfied that the debt is owed by Mrs D, and that 1<sup>st</sup> Credit is entitled to ask her to make repayments to it.

#### Threatening letters

So far as Mrs D's complaint about 1<sup>st</sup> Credit's conduct goes, I do not find it has acted unfairly or breached the Office of Fair Trading's debt collection guidance nor do I find that its actions amount to harassment.

#### Customer service

1<sup>st</sup> Credit has agreed to pay Mrs D £50 to compensate her for its failure to keep her informed of the reasons for the delay in providing her with information. I find that a payment of £100 is more appropriate for the distress and inconvenience the delay caused to her. I note that this continued for a number of months.

#### **my final decision**

My final decision is that 1<sup>st</sup> Credit (Finance) Limited should pay Mrs D £100.

Rosemary Lloyd  
**ombudsman**