

complaint

Miss S acquired household furniture in May 2012, by means of a 60 month fixed sum loan agreement with Hitachi Capital (UK) Plc. She subsequently experienced financial difficulties and entered a Debt Management Plan (DMP). She complains that she has repaid more than her original debt. She wants Hitachi to review her account, and to calculate the outstanding balance correctly.

background

The background to this complaint, and my initial conclusions, were set out in my provisional decision dated 29 November 2017 – a copy of which is attached and forms part of this final decision. In my provisional decision, I explained why I disagreed with our investigator's view that the complaint should be partly upheld. I thought it should not be upheld.

Neither Miss S nor Hitachi responded to my provisional decision.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In the absence of other arguments or evidence to the contrary, I continue to think that the conclusion reached in my revised provisional decision is correct.

my final decision

For the reasons explained above, my final decision is that I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 7 April 2018.

Roy Mawford
ombudsman

COPY OF PROVISIONAL DECISION
29 November 2017

complaint

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background

Miss S borrowed a little over £1,100 – on which interest of a little over £1,200 was payable if, but only if, the loan was not fully repaid by May 2013. Ms S did not repay the loan during this period, and so the amount repayable from May 2013 onwards was a little under £2,400. 48 monthly repayments of just under £50 were required, starting in May 2013, but were not made.

Hitachi told us:

- In July 2013, it agreed a revised payment plan with Miss S – but she did not adhere to the plan
- In October 2013, Miss S notified it that she was experiencing financial difficulties and that she was dealing with a credit counselling organisation
- A reduced payment plan was offered and accepted for 12 months – but this plan was also not adhered to during 2013
- In January 2014, the agreed reduced payments began to be made
- It sold Miss S's debt to another financial services business later that month

Miss S complained in August 2017 that she had made repayments of a little under £1,200 (which was more than the amount she borrowed), but that her outstanding balance (as recently notified to her) was just over £1,000. She said that, under her DMP, interest and charges associated with her debts were supposed to have been frozen. She added that she had never missed a DMP monthly payment, and so she did not accept that the outstanding balance was correct.

Hitachi responded saying:

- The debt it sold in January 2014 included the interest applicable to Miss S's loan (because the loan had not been repaid by May 2013)
- Miss S appeared not to have taken into account interest and charges applied before her reduced payment plan was accepted
- It suggested that we should not uphold this complaint

Our investigator noted that, in October 2013, Miss S told Hitachi about her financial difficulties. Our investigator did not think that, in these circumstances, it was fair to ask Miss S to pay interest on the full 60 month term of her agreement. Our investigator recommended that Hitachi should remove the interest applied to Miss S's debt covering the remaining 40 month period, after it was sold in January 2014.

Ms S accepted our investigator's recommendation, but Hitachi did not. And so this case was referred for review by an ombudsman.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I find that I disagree with our investigator's view.

My understanding is that Hitachi sold Miss S's debt in January 2014. This means it had no further involvement with her account. The monthly payments made by Miss S have been going to the debt

owner – which, from February 2014 onwards, was not Hitachi. And Hitachi had no involvement in any interest or other charges applied to her account after January 2014.

When Miss S told Hitachi in October 2013 that she was experiencing financial difficulties, it had a responsibility to respond positively and sympathetically. This could mean freezing interest and other charges, and agreeing a reduced payment plan (usually for a defined period, at the end of which her circumstances would be reviewed).

Miss S also told Hitachi that she was dealing with a credit counselling organisation, although it is not clear when she entered her DMP. But Hitachi says that, in October 2013, a 12 month reduced payment plan was offered and accepted.

From account statements provided to us, it appears that Miss S did not make the agreed reduced payments during the remaining months of 2013 – but she began to make them in January 2014. Hitachi continued to apply modest charges during 2013 (possibly because Miss S was not keeping to her agreement with it) – but it applied no charges in 2014.

Hitachi could have been more active, given that full monthly payments were required from May 2013 onwards, and none were made. It could have issued a Notice of Default and then defaulted Miss S's account (which would have had a seriously negative effect on her credit file). It could also have written off some of her debt.

Hitachi did neither – but, in my view, its actions (while not being generous) were sufficient to fulfil its responsibilities (a reduced payment plan was offered and accepted). And it had no further involvement in Miss S's account after January 2014. This means I find that it should not be required to recalculate, or to remove any of the interest charges it applied to, Miss S's account.

my provisional decision

For the reasons explained above, but subject to any further comments or evidence I receive from Miss S or Hitachi Capital (UK) Plc by 13 December 2017, my provisional decision is that I do not uphold this complaint.

Roy Mawford
ombudsman