

## **complaint**

Mr J took out a loan with Clydesdale Financial Services Limited trading as Barclays Partner Finance (BPF) to buy a car. He's unhappy BPF subsequently passed his account to debt collection agents and says the car was then sold without his consent.

## **background**

In 2012 Mr J took out a loan with BPF. At the end of 2013 he got in touch with BPF by which time his account was in arrears. He said he had a court hearing in January which was likely to result in a custodial sentence. He hadn't been able to make payments to his loan as he'd lost his job. He said his car was being held in a police compound but when it was released he intended to sell it to try and settle his agreement.

BPF asked Mr J to provide details of his prisoner number and the prison he was being held in when he knew this. It chased for this over the next few months and put collection activity on hold for periods of time. The account was also passed to debt collection agents and recalled during this time. In June 2014 Mr J's sister contacted BPF and said she was acting on his behalf and told it which prison he was in. BPF wrote to the prison service for confirmation but says Mr J didn't consent to details about him being disclosed.

By September the account was back with debt collection agents (acting on behalf of BPF). They spoke to Mr J's sister about his car which was still being held in the police compound. The following month the police said it was no longer required by them and gave notice that it needed to be collected. A valuation was carried out by a third party dealer and the debt collection agents say Mr J's sister agreed to sell it. Mr J disputes this. The third party dealer says the sale was arranged through the debt collection agents. At the end of October the sale took place and the proceeds were applied to Mr J's loan account. In December the DVLA wrote to Mr J at his home address to say it had received an application to record someone else as the registered keeper of the vehicle. It said he should get in touch if he still had the car or if it had been stolen. That didn't happen.

Our investigator didn't think BPF had acted unreasonably in passing the debt to a collection agency as it hadn't been able to get the details it needed to confirm Mr J's whereabouts. And while she accepted there was conflicting evidence about the sale of his car she felt it was most likely Mr J's sister agreed to this on his behalf.

Mr J didn't agree. He says his sister didn't give any authorisation for the sale and had no contact with the third party dealer about this. And she didn't get in touch following the letter from the DVLA because based on what she'd been told she didn't think she had any choice in the matter. So I need to reach a final decision.

## **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 appreciate Mr J is unhappy his account was passed to debt collection agents. And I know that despite his car being sold he's still got a significant amount left outstanding on his loan to repay. But I don't think there's enough evidence for me to say BPF has done anything wrong. I'll explain why.

Mr J is unhappy BPF transferred his debt to debt collection agents despite the fact he'd been sent to prison. But I don't think it was unreasonable of BPF to want confirmation that Mr J was in prison. And it made a number of attempts to get that information including writing to the prison service. It also put collection activity on hold for periods of time while waiting for that information. And it didn't get what it needed in response to those inquiries. So I don't think it acted unreasonably in getting debt collection agents involved.

In any case I understand Mr J's key concern is around the sale of his car. And I accept the evidence here is limited and in some cases contradictory. It appears the debt collection agents can't access some of the emails relating to this because the member of staff involved has left. And while the debt collection agents say they just facilitated the sale the third party dealer says it bought the car from them.

However, it doesn't seem to be in dispute Mr J's sister did have discussions with the debt collection agents about the sale of the car and what it might be worth. Its records indicate she was then going to discuss that with Mr J. And I'm conscious of the fact that Mr J's original intention seems to have been to sell the car to settle his agreement because that's what he told BPF before he was sent to prison. So a decision to sell the car wouldn't be out of keeping with his original thinking.

And the account notes after the valuation had been carried out say the debt collection agents asked the third party dealer to collect the car "*as per the discussion and permission received*" [from Mr J's sister]. There's an email note a week later saying Mr J's sister would contact the third party dealer direct. And as there appear to have been issues with the car the third party dealer issued a revised valuation.

Following that the agents emailed the dealer and said they'd spoken to the owner "*who has accepted the valuation*" and would be sending the log book to the dealer. I appreciate Mr J's sister wasn't actually the owner of the vehicle but I think it's likely that the email was referring to her. And with that email the agents included an invoice which said the dealer would need to meet Mr J's sister at the garage to sign the paperwork and arrange the handover. That doesn't suggest to me the car was sold without consent from Mr J's sister (who we know was acting on his behalf).

In addition after payment had been received for the vehicle by BPF there was a further email from Mr J's sister querying where she should send the logbook to. That's a surprising question to ask if she hadn't already agreed to the car being sold. And it doesn't seem to be in dispute that Mr J's sister did see the subsequent letter from the DVLA. So if she hadn't agreed to the sale of the car I think it's likely she'd have taken action in response to that letter.

Mr J says she didn't do that because she didn't think she had any choice but to agree to the sale. But that doesn't match up with his argument that she didn't agree to this taking place at all. Overall I don't think there's enough here for me to say the car was sold without the agreement of Mr J or his sister.

**my final decision**

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 10 July 2017.

James Park  
**ombudsman**