

complaint

Mr M complains NewDay Ltd (Marbles) unfairly defaulted his account and shared his personal information with a debt collector without his permission. He wants compensation and for the account to be returned from the debt collector.

background

Mr M tells us he made a payment arrangement with Newday - and he kept to it. But he says he's since found it sold his debt to a company I'll refer to as "L" - and has defaulted his account. He says he never received letters about the default. And he thinks Newday breached data protection laws as he never gave it permission to share his details.

NewDay told us it had written to Mr M and told him it had sold the debt of £484 and assigned its rights to L. It said it was entitled to sell the account and share information under the terms of the account. So it wouldn't be upholding Mr M's complaint.

The investigator did not recommend the complaint should be upheld. He thought Newday had acted fairly. And said the terms and conditions of the agreement allowed it to sell accounts to specialist debt collection companies and share information.

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 understand Mr M is concerned at what's happened and feels he's not been treated fairly. And I can understand *why* he feels that way as there was no evidence he'd broken the payment arrangement with Newday when the debt was sold.

I'll say straightaway I've reached the conclusion that Newday hasn't done anything wrong in this matter and I'll explain why.

Mr M opened the account but subsequently found difficulties in making payments due to a reduction in his income caused by ill health. He entered a payment arrangement and has kept to the terms. I can see from Newday's notes that default notices were sent - but Mr M says he didn't receive them. I've no reason to doubt this - but Newday isn't responsible for a third party failing to deliver correspondence. Newday sold the debt to L - and it was entitled to do so. I set out the relevant term in the agreement:

"We may transfer any or all of our rights or duties under this agreement to another organisation (Including organisations outside the European Economic Area). If we do this, we may let them have any information about you or an additional cardholder."

L took over the collection of the debt and I can see the relevant entry on Mr M's credit file. As it happens I can't see any default recorded in respect of this account. The account shows as being up to date - the payment arrangement isn't recorded. So the file seems to be incorrect - but in a way which does not disadvantage Mr M. The fact that Newday ceased to offer credit to Mr M - does not mean it defaulted the account.

But even if the payment arrangement had been recorded there would be nothing wrong in that - as a business is supposed to report accurate information about account behaviour.

And although Mr M was up to date with the payment arrangement - he was in arrears on the original contractual payments.

So whilst I know it will come as a disappointment to Mr M I agree with the investigator that this complaint should not be upheld.

my final decision

For the reasons given above my final decision is I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 October 2018.

Stephen D. Ross
ombudsman