

complaint

Mr M complains that United Kash Limited is chasing him for a debt he feels he doesn't owe. He's assisted in bringing this complaint by a family member - but for ease of reading I'll refer to Mr M throughout.

background

Mr M tells us he took out a payday loan for £100 with a company, S. He says he reported the company for making abusive and threatening calls. Mr M told us S is no longer trading and there's no reference to the debt on his credit file. He felt any company who subsequently bought the debt were all related to S - and questions whether the debt is legally enforceable. He's unhappy that United Kash is chasing the debt - and can't understand why it's not been written off.

United Kash told us it purchased the debt in 2016 - and had received a spread sheet and a copy of the loan agreement. But it hadn't seen any annual statements or history of payments. So it wasn't aware of any payments made by Mr M. It said it's removed the interest the previous debt owners had applied and followed the new Financial Conduct Authority (FCA) rules and charged the customer only twice the original debt.

Mr M wasn't happy United Kash is still seeking repayment of the debt and complained to us.

The investigator didn't recommend the complaint should be upheld

She explained that we could only look at the actions of United Kash from the time it bought the debt. She'd seen a spreadsheet which appeared to be provided by the previous owners of the debt - and that contained Mr M's personal details at the time of the application. In addition she'd been provided with a copy of a fixed sum loan agreement - which detailed the original sum loaned, £100, and the required repayment. She also found that Mr M had written to us a few weeks after the loan was due to be repaid - saying because of his circumstances he wasn't able to repay it. And she'd seen no evidence that any repayments had been made.

The investigator also found that United Kash had removed interest from the loan (over £1,000) and applied the new rules put in place by the Financial Conduct Authority - which limits a debt of this type to twice the original sum - less any repayments made. So she thought in seeking only £200 it had acted fairly in this respect. She felt on balance it more likely that Mr M did not make repayments - and United Kash was entitled to seek repayment of the debt.

Mr M wasn't happy with this outcome and asked that an ombudsman make the 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 can see Mr M's been caused a considerable amount of distress by the circumstances which have arisen - and I understand having this matter hanging over him can't be easy. But it's necessary for me to explain the limitations of my role in matters such as this.

Perhaps the most important point is that it's not for me to decide if Mr M owes this debt or not - only a court can make that decision. And the same applies to the issue of whether repayment of the debt is enforceable. What I'm deciding is if United Kash has acted reasonably in seeking to collect the debt.

So the starting point is whether there are reasonable grounds for believing the debt is owed. And on the evidence I've seen I agree with the investigator that it *probably* is. Mr M doesn't seem to dispute the original debt and so the only issue is whether it's been repaid. And there's nothing so far to suggest it has been. I'm aware Mr B is trying to establish if repayments were made and there are ongoing enquiries with several banks to try and establish the true position. But whilst it's obviously an important issue to Mr M - it doesn't actually affect my decision. It's only fair to judge the action taken by United Kash on the basis of information it had or ought reasonably to have sought at the time it bought the debt. And it wouldn't have access to any of Mr M's bank accounts - which might contradict the information it had been given by the previous owner of the debt.

So for the same reasons as the investigator I'm satisfied that United Kash believed on reasonable grounds the debt it purchased was genuinely owed - and it was entitled to seek repayment. And whilst I know it will come as a disappointment to Mr M I agree with the investigator - that this complaint should not be upheld.

Finally, I understand from Mr M that United Kash has suspended collection activity and agreed to hold it until enquiries with the banks are concluded. I hope this helps alleviate the stress he's felt and that a resolution can be found which is acceptable to both parties.

my final decision

For the reasons given above 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 16 October 2017.

Stephen D Ross
ombudsman