

complaint

Ms O is unhappy because Paragon Finance PLC continues to pursue her for payment of an outstanding debt.

Although Ms O is represented in this matter by a third party, for simplicity I will just refer to Ms O.

background

Ms O had a credit card with a bank. Paragon later bought the account from the bank and it initially received monthly repayments from Ms O via the bank. Ms O later authorised various organisations to act on her behalf, and Paragon started receiving repayments from Ms O via those organisations.

Paragon received the last repayment in September 2017, which left an outstanding balance of just over £3,700. Paragon has been contacting Ms O in order to get her plans for repaying the outstanding debt. The complaint has come to us because Ms O thinks it's unfair for Paragon to be pursuing her as the debt is unenforceable.

Our investigator didn't think the complaint should be upheld. He felt the bank had shown that Ms O was their customer and he noted that regular repayments had been made to Paragon over a number of years. He therefore felt the debt was Ms O's and that Ms O was aware of it. He didn't therefore think Paragon had treated Ms O unfairly by contacting her seeking repayment of the debt.

Ms O disagreed with our investigator and asked for an ombudsman to review the complaint. She disputed the amount owed and noted that the bank (and Paragon) hadn't been able to provide a copy of the credit agreement – so she couldn't check whether the account had been administered correctly. She also felt Paragon should be contacting her through her solicitor.

my findings

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

We often see cases where a consumer argues that they shouldn't have to repay a debt because it's unenforceable. Paragon accepts that Ms O's debt isn't enforceable in court because it can't provide a copy of the credit agreement. It's nevertheless of the view that the debt remains outstanding and that Ms O remains liable for it.

I note Paragon immediately (and consistently and regularly thereafter) received repayments to the account from the moment it bought the debt from the bank. I also note that the complaint letter written to Paragon says Ms O *"entered into this credit agreement ... with [the bank]"*. I'm therefore satisfied that the debt at the centre of this complaint has arisen from a credit card Ms O originally held with the bank. If Ms O disagreed the debt was hers, I think it's more likely than not that she would have disputed it at the outset.

I've seen a statement that Paragon sent to Ms O in December 2018 which shows the payment history on the account. The statement shows that the opening balance when Paragon bought the account was £6,587.45¹ and that Paragon received payments totalling

£2,853.85 from February 2012 until September 2017 – thereby reducing the amount owed to £3,733.60. I can't see that any interest or other charges were added to the account during that time. It therefore seems the amount owed reduced in line with the payments Paragon received.

Whether the debt is legally enforceable is a matter for a court to decide – that's not something I can determine. However, as I'm satisfied the debt is Ms O's, I don't think Paragon has treated Mrs O unfairly in asking her for repayment or in taking steps to recover the money.

There is a sundry issue about Paragon contacting Ms O directly rather than through her representative. As Ms O appointed a representative there is an argument to say that Paragon should be contacting her via the representative. However, as no payment proposals were forthcoming and as the debt is Ms O's (rather than the representative's) I think there's also an argument that Paragon could contact Ms O directly. Nevertheless, I don't think any wrongdoing by Paragon in contacting Ms O directly was sufficiently unreasonable to warrant any compensation being awarded.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms O to accept or reject my decision before 14 March 2019.

Paul Daniel
ombudsman

¹ In recent correspondence from Ms O the opening balance was quoted as being £6,529.94 but I think that was the balance *after* Paragon received the first repayment of £57.51.