

## **complaint**

Mr J complains that MYJAR Limited via a debt collection agency wrongly contacted him about a debt it claims he owes. He wants an explanation, confirmation that he doesn't owe any money, and compensation for his wasted time.

## **background**

In 2016, Mr J was contacted by a debt collection agency, which said it was chasing a debt owed by him to MYJAR. Mr J said he'd never borrowed money from any payday lender, including MYJAR. He asked for the information which made MYJAR believe that he owed it money. Mr J said it failed to give him the information despite many requests. He suspected that it just contacted him because he had the same name as the person who did owe the money.

Mr J complained to MYJAR and then to this service. MYJAR said that in 2015, someone took out a loan in Mr J's name and then failed to repay it. It said it did carry out checks before giving the loan, which meant whoever applied for the loan had enough information about Mr J in order to get the loan. MYJAR said that it did deal with Mr J, but he wouldn't give it any information about himself, which meant it had to investigate the fraud without his help. It couldn't find that any fraud had taken place and didn't uphold Mr J's complaint. MYJAR said it wasn't able to give Mr J much information due to the Data Protection Act.

The adjudicator investigated. He found out that the money was sent to a bank account which wasn't in the name of Mr J or anyone obviously connected to him. The bank involved told him that it closed the account as it found out that it was being used for impersonation fraud. The adjudicator's view was that the complaint should be upheld as he was satisfied that Mr J hadn't taken out the loan. He said MYJAR should remove any negative information about the debt from Mr J's credit records and to write off the debt. The adjudicator couldn't ask MYJAR to change its systems as it appeared that it was a victim of fraud and that was why its checks failed in this case.

Mr J disagreed. He said he'd been put to considerable inconvenience and MYJAR should've acted in a way that would stop such frauds happening. Mr J also didn't think it was reasonable MYJAR had refused to give him information about the loan but wouldn't accept he wasn't responsible for the debt. The adjudicator explained that as the fraudster had impersonated Mr J, and the Data Protection Act had stopped MYJAR giving Mr J the information he wanted, he didn't think it was fair or reasonable to give Mr J compensation. Mr J wanted the adjudicator to give him the information about the fraudster.

## **my findings**

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

Following the investigation by this service, there's no dispute that Mr J didn't take out the loan and MYJAR has been the victim of a fraud. In these circumstances, it's entirely fair and reasonable that MYJAR doesn't ask Mr J to pay the debt and removes any negative information about the loan from his credit records.

The issues left for me to decide are whether Mr J should get any compensation for the undoubted trouble and upset he's been put to by MYJAR giving the loan to a fraudster and

trying to collect the debt from him, and whether Mr J should get any information about the fraudster and the original loan.

I completely empathise with Mr J and the position in which he's found himself. But the difficulty is MYJAR is also a victim. Unfortunately, impersonation fraud is happening more often and relatively little personal information is required to borrow small sums of money over the internet. I can't interfere with the systems of a particular business or the regulations under which they operate, but I'm satisfied that MYJAR honestly believed it was lending to Mr J, and not a third party. That means it wasn't unfair or unreasonable for it to ask Mr J to pay the debt, and I note it paused the collection activity as soon as Mr J contacted the agency and MYJAR.

I understand Mr J's frustration that neither MYJAR nor this service can legally give him the information he wants about the loan and the fraudster. But regrettably I can't do as he wishes due to the Data Protection Act, though I accept it must appear as if the fraudster is the one being protected. I hope the fact that the adjudicator has managed to get the evidence which clears Mr J is of some comfort. But it wouldn't be fair or reasonable for me to require MYJAR to pay Mr J compensation in all the circumstances of this case.

### **my final decision**

My final decision is that I uphold the complaint and MYJAR Limited should no longer ask Mr J to pay the debt, and remove any negative information about the loan from his credit records. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 7 March 2017.

Claire Sharp  
**ombudsman**