

complaint

Mr A complains that Britannica Recoveries S.a.r.l. is still pursuing him for a debt that he believes is unenforceable because it hasn't complied with his Section 78 request.

background

Mr A says that he made a Section 78 request for information about his debt with Britannica and that he did not receive a satisfactory response. He now says that the contract is unenforceable and that Britannica should cease all debt recovery action.

Our adjudicator did not recommend that the complaint should be upheld. He explained that, even if there had been a breach of regulatory compliance, this service needs to consider what is fair and reasonable in the circumstances of the complaint. In this case there is no dispute that Mr A has had the benefit of the money and that there is an outstanding balance.

Mr A responded to say, in summary, that the agreement is in dispute and, therefore, payment of the debt cannot be pursued.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I accept that Mr A says that Britannica has breached Section 78 and, therefore, the agreement is unenforceable. However, as the adjudicator explained, this service cannot rule on points of law. I can, however, consider whether Britannica has breached the Office of Fair Trading guidelines but, much like the adjudicator, I find that it has not.

Therefore, as it is not in dispute that Mr A owes the money, I consider it fair and reasonable that Britannica should pursue the debt. This does not preclude Mr A from seeking legal advice regarding the relevant points of law.

my final decision

My final decision is that I do not uphold this complaint.

Amanda Williams
ombudsman