

## **complaint**

Mr and Mrs H complain about the way in which Idem Capital Securities Limited trading as Idem Servicing (Idem) pursued them for a debt.

## **background**

In April 2008 Mr and Mrs H took out a loan. The debt was sold to Idem in December 2011.

Mr and Mrs H said Idem should not continue to pursue them for the debt. They said it had failed to prove that Mrs H was liable for the debt and that the debt was unenforceable. They also said that Idem had: failed to take into account their protected status; failed to properly consider offers that they made to settle the debt and that the repayments were unaffordable; continued to add interest and charges to the account; and failed to inform them of the fact/involve them in the decision that the debt was being transferred. They also said the manner in which Idem had sought to recover the debt amounted to harassment.

They complained to Idem. It did not uphold their complaint.

They asked us to look at their complaint. Our adjudicator did not uphold their complaint. However, in the course of her discussions with Idem it offered to pay £150 as a goodwill gesture to Mr and Mrs H for failing to directly acknowledge Mr and Mrs H's difficult circumstances.

Mr and Mrs H have not responded to that offer but had previously asked for an ombudsman to look at the complaint.

## **my findings**

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

Mr and Mrs H said Idem had not established Mrs H's liability for the debt. Neither Idem nor the loan provider have been able to produce a copy of the original loan agreement. The loan provider explained that this was due to the passage of time. I have however noted the following:

- A letter to Mrs H in December 2011 from the loan provider at the address that she currently resides at advising her that the loan had been purchased by Idem;
- Mrs H did not seek to contest her liability until August 2012. I can see from Idem's system notes that it sent her a copy of the loan agreement in August 2012. The system notes state that the loan agreement showed Mrs H as an applicant;
- A letter from Idem to Mrs H in November 2014 stating that it had previously provided her with a copy of the loan agreement;
- Notices of sums in arrears sent separately to both Mr and Mrs H every six months between December 2011 and June 2015;
- Letters to both Mr and Mrs H confirming that a payment plan was agreed in 2012 and revisited in 2013 and again in 2014;
- A letter dated November 2014 in which Mrs H said she did not benefit from the loan and which suggested she didn't fully understand the paperwork when she took the loan.

I am satisfied on the evidence that I have seen that this is a joint loan and that Mr and Mrs H are both responsible for the debt. I am also satisfied that Idem has provided them with sufficient information about the debt and so is entitled to recover the money from them.

Mr and Mrs H have also said because of the Idem's failure to send them certain documents the loan is not enforceable. This service is unable to deal with issues surrounding the enforceability of a debt and if that is a matter that Mr and Mrs H wish to pursue then they will need to refer the matter to a court.

Mr and Mrs H said they were not notified that the loan would be transferred and nor were they involved in the decision to do so. I have been provided with a sample copy of the loan agreement. The terms and conditions of the loan allowed for the rights and duties under the loan to be transferred. As set out above, I have also seen a letter from the bank notifying Mrs H that the loan had been sold in December 2011 as well as a welcome letter from Idem that same month. I am satisfied that Mr and Mrs H were notified that Idem had taken over the debt and I see no reason for Mr and Mrs H to have been involved in that decision.

Mr and Mrs H also complain about the interest and charges added to the loan. I can see from the statement of account that no interest or charges were added to the loan from when Idem purchased it in December 2011.

Mr and Mrs H said Idem did not accept the offers they made to settle the loan. I can see that from 2012 Mr and Mrs H made around four offers to settle the loan at considerably less than the amount owed. Idem is not legally obliged to accept such offers but I can see that it gave them consideration. Although Idem did not accept the offers, it did agree to a payment plan with Mr and Mrs H in which it has accepted token payments of £5 or less from when it purchased the loan.

Having looked through the system notes and correspondence I am not persuaded that the contact from Idem was excessive.

I acknowledge Mr and Mrs H's comments about their financial difficulties and family circumstances. I am not clear what they mean by 'protected status' and we asked Mr and Mrs H to clarify this further, but they have not responded. However, from what I can see Idem has responded positively and sympathetically to Mr and Mrs H. It did however acknowledge that it failed to directly address their difficult circumstances and offered to pay £150 as a goodwill gesture in recognition of this.

I sympathise with Mr and Mrs H who find themselves in financial difficulties. It remains open to them to contact Idem to discuss an affordable repayment plan as it appears the previous plan has fallen away. This would be dependent on any income/expenditure assessment that Idem may require them to undertake. I would remind Idem of their continued obligation to treat Mr and Mrs H positively and sympathetically.

### **my final decision**

My final decision is that I do not uphold this complaint. I simply leave it to Mr and Mrs H to decide whether they wish to accept the offer of £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision before 29 March 2016.

Siobhan Kelly  
**ombudsman**