

complaint

Mr M complains that Drydens Limited told him the offer he made to settle a debt was acceptable, but then later said it wasn't.

background

Mr M owes a debt to a lender. This lender employs Drydens to recover repayment of this debt from Mr M on its behalf.

Drydens agreed a debt management plan with Mr M, which allowed him to pay back what he owed through monthly payments. Then in March 2019, Mr M called Drydens to offer £700 in full and final settlement of the debt. Drydens initially accepted this and therefore cancelled Mr M's repayment plan. But before Mr M made the payment, Drydens said that it had made a mistake because the lender, as the owner of the debt, had declined Mr M's offer due to a charging order secured against his property.

Unhappy, Mr M made a complaint to Drydens. In May 2019, it apologised for giving him the wrong information, but said it wasn't responsible for deciding if the offer settlement should be accepted – so it did all it could do by forwarding this offer to the lender.

Mr M remained unhappy, so he brought the complaint to our service. Our investigator looked into it and found that Drydens had incorrectly advised Mr M, so he recommended £50 compensation for distress or inconvenience. But he thought Drydens was right in saying that it could only make the lender aware of the offer.

Mr M disagreed with this and also questioned the outstanding balance and what is showing on his credit file. Our investigator confirmed the amount owed, but explained that any question of how this was made up or recorded, or any further offers of settlement that Mr M might be unhappy about, would need to be raised as a separate complaint – because Drydens hadn't had the time that it's entitled to have to look into these concerns.

Mr M asked for an ombudsman to give a final decision, so the complaint has been escalated to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've upheld the complaint. I'll explain why.

Within this complaint, I can only consider the concerns Mr M has raised about Drydens giving him incorrect information about the £700 settlement offer he put forward in March 2019. I say this because Drydens responded to this complaint in May 2019, and is entitled – under the regulator's rules (DISP 1 of the *Financial Conduct Authority Handbook*) – to an opportunity to investigate and informally resolve any subsequent concerns Mr M has, as part of a separate complaint.

Because this complaint has been made about Drydens, I can only consider its actions here as a debt collector – and not the actions of the lender (including the sum owed and its willingness to settle). If Mr M is unhappy with the lender, he would need to complaint to it directly first.

As the legal owners of this debt, the lender would have to give its authorisation in order for Drydens to accept a settlement offer that Mr M makes. I understand that the lender declined Mr M's offer because there is a charging order in place and it decided that £700 was not enough to settle the overall balance of the debt.

However, because I can only consider Drydens' actions, it's not for me to determine here and now whether the £700 offer was acceptable. And I don't think it would be fair and reasonable to tell Drydens to honour it just because of its relatively minor admin error – that would be disproportionate.

When the settlement was put forward, Drydens should have explained to Mr M that his offer would need the lender's authorisation, before it could be accepted. Instead, Drydens purported to accept the offer and told Mr M that the charging order would be removed, once payment was made. This led Mr M to believe that the debt had been paid in full and final settlement.

I've reviewed the call recording of this conversation and it's clear that it was important to Mr M that this debt was settled. He expressed his relief that the charging order would be removed and he could move on from the debt. So I'm persuaded that it would've caused him some disappointment to find out that the debt was in fact still owed, with the order still in place. And that he needed to either increase his offer or continue to make repayments on a debt management plan.

However, I am not persuaded that this incorrect advice caused Mr M actual financial loss, as there's no evidence that he acted in reliance on it to his detriment.

In an attempt to put things right, Drydens attempted to get the lender's authorisation. When this was turned down, Drydens offered to arrange another debt management plan, as the original plan had been cancelled.

It recognised that Mr M wanted to settle the debt and tried to help him, including confirming the outstanding balance with the lender, alongside explaining the right settlement process that needed to be followed. So I'm satisfied that following its error, Drydens took positive steps to assist Mr M.

Overall, I conclude that Drydens should compensate Mr M – but only for distress or inconvenience; and in the circumstances, I agree that £50 is fair and reasonable.

my final decision

My final decision is that I partly uphold this complaint.

So Drydens Limited should pay Mr M £50 compensation, if it hasn't already done so, within 28 days of receiving notice from us of his acceptance of this decision, failing which interest will start to accrue on this sum at the simple rate of 8% a year (less any tax properly deductible) until the date of payment.

Mr M should note that if he accepts my decision, it will be legally binding and he wouldn't be able to take further action over the subject-matter of this particular complaint against Drydens. If, however, he rejects the decision or doesn't reply on time, his legal rights will remain intact.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 6 October 2019.

Matthew Belcher
ombudsman