

## **complaint**

Mr R complains that Lowell Portfolio I Ltd failed to update his credit file promptly when he settled a debt, resulting in a mortgage application being declined.

## **background**

Mr R had a debt with a third party bank. This debt was sold to Lowell in August 2011, however Lowell did not take control of the record with credit reference agencies. Mr R settled the debt in October 2011 but Mr R's credit file was not amended until February 2012. Mr R says this delay caused the collapse of a house purchase and losses of almost £2,000. He believes Lowell should repay this.

Our adjudicator recommended that the complaint be upheld in part. She found that Lowell was responsible for notifying the third party bank that the debt had been settled. Its delay in doing so led to a delay in Mr R's credit file being amended, causing him a certain amount of distress and inconvenience. Our adjudicator recommended that Lowell pay Mr R £200 to reflect this.

Mr R did not consider this award to be high enough so the matter was referred to me.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I uphold the complaint in part.

The basic facts here are undisputed. Lowell bought the debt from a third party bank in August 2011. Mr R settled the debt in October 2011 but his credit file was not updated until February 2012.

As Lowell has acknowledged, *"it is usually the case that [Lowell] becomes the data controller, as defined by the Data Protection Act, in place of the original creditor from whom the default information originated"*. However, that did not happen here. Whilst this complaint is not against the third party bank, I find it likely that that bank failed to update its record of the debt appropriately.

However, I find that Lowell failed to ensure it had taken responsibility for the record of the debt and failed to recognise the implications for Mr R's credit file. This meant Mr R's credit file was not updated until February 2012, over three months after he settled the debt.

I find that Mr R has suffered a certain amount of distress and inconvenience by Lowell failing to take adequate steps to ensure Mr R's credit file accurately reflected the status of the debt. Having considered the general levels of awards this service makes in this area, I assess a fair award at £200.

I am conscious that this award is less than Mr R believes he should receive. He says that he was in the process of buying a house and had a mortgage application *"agreed in principle"* but says that the delay in amending his credit file meant his mortgage application was declined and the house purchase fell through. He says this cost him over £1,000 in fees towards the new house and £360 in letting agents' fees for his existing property.

Mr R has not provided any evidence that his mortgage application was declined solely because his credit file did not reflect the settled debt. Nor has Mr R provided evidence of the costs he incurred. Finally, there is other information on Mr R's credit file that might explain why his mortgage application was declined: for example, a previous default on the account and multiple credit applications between July and October 2011. In the circumstances, I am not persuaded that Lowell can be held liable for the additional costs Mr R claims.

Mr R is under no obligation to accept my decision; if he does not, he remains free to pursue the matter in other ways, such as through the courts.

**my final decision**

My final decision is that I uphold this complaint and order Lowell Portfolio I Ltd to pay Mr R £200.

Simon Begley  
**ombudsman**