

complaint

Mr and Mrs H complain that Experto Credite Limited ("Experto") incorrectly recorded defaults on their credit files. They ask for compensation to be paid for their time and effort in resolving the problem. They also want Experto to make a payment to them which is equal to the amount paid to the original debt owner for Mr H's account. Mrs H wants compensation for consequential losses she says flowed from Experto's mistake. They ask that the default information on their files be removed.

Further Mr H complains that Experto made a "*matched payment*" offer in which it agreed to settle his account for a sum that was lower than the amount that he owed. He considers this offer was made "*too late*".

our initial conclusions

Our adjudicator did not recommend that the complaint should be upheld. He was satisfied that the way the data was reported on Mr and Mrs H's credit file was not the fault of Experto. It followed he did not consider that it was appropriate to ask Experto to pay any compensation in the circumstances.

Experto accepted this recommendation. Mr and Mrs H did not and they repeated their previous stance that Experto was at fault.

As the parties did not all accept the recommendation the complaint was sent to me for a decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where necessary and/or appropriate, I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened in light of the evidence that is available and the wider surrounding circumstances.

In reply to our adjudicator's view Mr and Mrs H asked for more time to respond to it. This was in April 2014.

It appears that we have not received any further information from Mr and Mrs H. But we are not able to keep a complaint open indefinitely because of this we have moved this complaint to this second stage of our complaint handling process so that we are able to make a determination.

this decision deals only with the actions of Experto

I realise that there are other businesses who recorded default information on Mr and Mrs H's credit files. I understand why Mr and Mrs H are dissatisfied with this. But I should first clarify that I can only consider the actions of Experto within the scope of this complaint. In other words, I have not considered how the both the original and the current debt owners recorded information on Mr and Mrs H's credit files.

Further, Experto explains it did not own the debt at any time. It merely acted on behalf of its principal and client a company I shall call "T". However, I can look at the actions of Experto

in this case because for the purposes of this complaint, T and Experto were one and the same company. This is because Experto was T's agent.

Experto did not register any information on Mrs H's credit file

Experto says that the original debt owner initially dealt with the debt as a joint debt and this is why defaults were registered by the original debt owner on both Mr H's and Mrs H's credit files. But, when the original debt owner came to sell the debt, Experto has demonstrated that the debt was sold to T as a sole debt in the name of Mr H only. I am satisfied Experto's records show it only reported information in relation to Mr H. In other words, it did not report any information about Mrs H. The credit reference agency has confirmed this is the case. On this basis I have no proper grounds for asking Experto to pay compensation to Mrs H.

Mrs H has brought a separate complaint against the original debt owner and I shall not be looking at this aspect of the complaint.

the business acted correctly when the debt was sold on to the new debt owner

Experto says that it ceased to act on the recovery of the money in 2012 when, T re-sold the debt on to another party. The evidence on my file suggests that it told the credit reference agency in July 2012 to remove the default it had registered as it had become the new owner's responsibility to report the data. But both its records and the records of the credit reference agency show that the credit reference agency did not follow Experto's instructions and did not remove the information as asked.

I cannot see that Experto could fairly be held liable for the mix-up. It was entitled to expect that the credit reference agency would follow its instructions without it having to check up on this. In any event, Experto's records show it contacted the credit reference agency in November 2012 when Mr H reported the problem of multiple defaults on his credit file. And the credit reference agency's records show the position was rectified at the time. I consider that Experto acted quickly and efficiently when it found out about the problem.

Mr H asks for the defaults to be removed from his credit file. But it appears that any registration now on the credit file has not been put there by Experto. So I cannot fairly require it to do anything further about the default information.

Mr H also asks Experto to pay him compensation plus a sum that equates to how much T paid the original debt owner for the account. Whilst I do understand Mr H's position that someone has to be responsible for the incorrect information registered on his credit file. For the reasons set out above I am not persuaded that there are grounds to award compensation against Experto.

the business did not make a mistake when it offered the matched payment

It is clear that Experto did make a commercial decision to offer Mr H the matched payment. but this was entirely a matter of commercial discretion. In other words Experto did not have to make the offer so there are no reasonable grounds for me to say the offer was made too late as Mr H suggests.

It follows that I do not uphold this part of the complaint.

my final decision

In light of the above, my final decision is that I do not uphold this complaint.

Joyce Gordon
ombudsman