

complaint

Miss H complains, in summary, that Kapama Limited acted unfairly by not contacting her about a debt which she now cannot afford to repay.

background

Miss H took out a loan with a company ("C") in February 2012 for £150 which was to be repaid in April 2012. But Miss H didn't repay it. The loan account was defaulted by C in July 2012 as the loan hadn't been repaid. C then sold the account to Kapama at the end of July 2012 when the loan debt amounted to £1,208.50. In about April 2012, Miss H had entered into a debt repayment plan. She made repayments on the loan debt through her debt management company from August 2012 to June 2013. Miss H is unhappy that she received no contact from Kapama after that. In late 2016, she noted an entry in her credit report referring to Kapama's debt and contacted Kapama about it as she didn't believe it was hers. She thought she was debt free. Miss H doesn't now believe that Kapama is acting correctly in seeking repayment of the debt as it hadn't been in contact with her about it for a long time. And she can't now afford to repay the debt. She is also unhappy that Kapama didn't provide a response to her complaint within the required eight weeks. She would like the debt removed.

The investigator didn't recommend that the complaint should be upheld. She was satisfied that the debt belonged to Miss H and that it was reasonable for Miss H to be contacted about the loan balance. She noted that Kapama had sent Miss H annual loan statements in 2016 and 2017. She also said that Kapama had made an offer to Miss H to reduce the account balance to £600 which she thought was reasonable.

Miss H disagreed and responded to say that her credit file showed the account marked as closed and that it hadn't been updated since September 2016. She noted that this meant that the account was non-active. Miss H thinks it wasn't right for Kapama to have not contacted her for so many years, and then for it to expect her to pay the debt. If she hadn't contacted Kapama, she thought it may not have contacted her at all.

my findings

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

I note that the account is included in the list of closed accounts on Miss H's credit report. But this doesn't mean that the debt can no longer be collected. The debt is still owed and closing the account for credit file purposes doesn't remove it from collection.

I also note that Miss H initially disputed the debt as she believed that it had been irresponsibly lent. I've seen C's loan agreement and note that it made affordability checks. But in any event, Kapama can't be held responsible for irresponsible lending as it didn't provide the loan to Miss H.

Miss H has also said that she believed that the debt wasn't hers. But I note that several of the details from the loan documentation correspond with Miss H's details. And I note that Miss H made several repayments towards the loan through her debt management company. So, I don't think that Miss H can now say that the loan wasn't hers.

I note that Miss H said that she hadn't heard from Kapama for several years. But I've seen copies of the loan statements sent in February 2016 and June 2017 which were addressed to Miss H's then address. Kapama also said that it sent two notices of assignment of the debt to Miss H in December 2014 and January 2015. And its records show that it sent three letters to Miss H in 2014 as well as the final response letter in August 2017 which was sent to Miss H's previous address, as it wasn't aware of her current address. Miss H says that none of these communications were received. I don't know the reason for this. But as I've seen that the statements were correctly addressed, I don't think I can hold Kapama responsible for any failures on the part of the postal service.

Miss H said that she hadn't received a response to her complaint which was raised at the end of July 2017. But, as I've said above, I can see that Kapama responded to the complaint through its sister company in August 2017, although it used the address it had on file for Miss H. Kapama hadn't been told by Miss H that she had moved. In these circumstances, I can't find that Kapama didn't respond to Miss H's complaint.

Miss H has referred to email correspondence she'd sent to Kapama. The investigator asked her for copies of this in November 2017, but it still hasn't been received. So, I've not been able to consider this. But I think Miss H has had sufficient time to send this to us.

As Miss H said that she hadn't heard about the debt for some time, I can see that it's possible that she forgot about it. But from what I've seen, it appears that there was some contact between the parties (or their representatives) from 2012 until January 2015. I don't know why Kapama didn't contact Miss H between February 2015 and January 2016 and between March 2016 and May 2017. But, overall, I don't think it acted inappropriately in doing so.

I note that Kapama has offered to reduce the account balance to £600. I agree with the investigator that this is a fair offer.

I realise this decision isn't the outcome Miss H hoped for and I appreciate she probably feels let down. But Miss H doesn't have to accept my decision, in which case she remains free to pursue the matter by any other means that may be available.

I also appreciate that Miss H's financial situation has changed and that her income is relatively low. As Miss H appears to be in financial difficulties, I would urge her to contact Kapama to discuss this. I would remind Kapama of its duty to treat cases of financial difficulty positively and sympathetically.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision 7 March 2018.

Roslyn Rawson
ombudsman