

complaint

Mr H complains that Ascent Performance Group Limited ("Ascent") mis-handled their collection of a debt from him.

background

Ascent took responsibility for collecting a debt from Mr H in 2014. The debt had originally been incurred with a company I'll call "S".

Mr H says that at the time he was suffering from poor mental health. He complained to Ascent that:

- the money shouldn't have been lent to him
- Ascent shouldn't have taken him to County Court as this forced him into further debt and he was unable to defend himself because of his ill health
- they treated him poorly in the communications they had with him
- they were wrong to charge him legal fees for the County Court Judgement
- they haven't told the court that the debt was settled in August 2018

Ascent didn't think there was any evidence they burdened Mr H financially. They said he'd need to get a Certificate of Satisfaction from the court so that his credit file could be updated and they explained that it was S and not them who were responsible for the original lending. So they forwarded Mr H's complaint, about irresponsible lending, to them.

But Mr H was dissatisfied with their response so he referred his complaint to this service where our investigator provided an opinion. She reviewed the communication between Mr H and Ascent but couldn't see there was evidence of them being pushy or unhelpful. She noted that they had signposted Mr H to some debt charities who may be able to help him and that they'd been in contact to try to arrange a payment plan. She noted that Ascent had warned Mr H that if the case went to court he may be charged for their legal fees so she didn't think they'd done anything wrong.

She went on to consider how Ascent had handled Mr H's mental health. But she couldn't find evidence that they had been made aware of Mr H's struggles and noted that they'd only been in contact on a couple of occasions by phone. So she didn't think there was evidence Ascent should have treated Mr H any differently.

She explained that a County Court Judgement would be removed after it had been on Mr H's credit file for six years and as that time hadn't elapsed she understood the judgement would still be impacting his credit file. She explained that it wasn't Ascent's responsibility to remove the judgement from his file and that would be S's responsibility. She also noted Mr H's concerns about irresponsible lending but she explained that the loan was approved by S and it would be them who'd have to consider any complaint Mr H had about mis-selling; not Ascent.

So overall, the investigator didn't think that Ascent needed to take any further action. But Mr H did and he therefore asked for a final decision by an ombudsman.

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 was sorry to hear about Mr H's problems. I hope things are now starting to improve.

I've taken a look at his complaint but I agree with the investigator's view. I know that will disappoint Mr H so please let me explain.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

mental health issues, poor communication and burdening Mr H with debt

If Ascent were aware of Mr H's mental health issues I'd have expected them to be sympathetic and positive to him and to make adjustments to ensure he was able to understand what was happening.

But I don't think there's evidence here that they were aware. Communication was very limited and whilst I understand that the messages being conveyed would have been difficult for Mr H, I've not seen evidence that the communication was mishandled.

And I don't think Ascent forced Mr H into further debt. I see the court proceedings were lodged in March 2014 but I can see that Ascent advised him he could avoid those proceedings if he could agree a satisfactory payment arrangement and that they were sympathetic to his situation when signposting him to organisations that could provide help.

the lending decision

The loan wasn't provided by Ascent and any complaint about irresponsible lending will therefore need to be directed to company S. I can see that Ascent told Mr H they'd do this for him but I can't hold Ascent responsible for the sale of the loan.

legal costs

Ascent warned Mr H that he'd be responsible for legal costs if court action was necessary and they tried to avoid court costs by agreeing a payment plan with him. I wouldn't be fair or reasonable to suggest they were wrong to subsequently make charges for these costs when the charging order was approved through the courts.

credit file reports

Mr H's default will continue to be reported on his credit file for six years. It's for company S to remove it as they were the lender. But as the investigator has explained, if Mr H wants to get a Certificate of Satisfaction from the courts he can use this to demonstrate to future creditors that the debt has now been settled.

But it's not Ascent's responsibility to amend Mr H's credit file. So again, and overall, I don't think there's evidence here that they did anything wrong or need to take any further action.

my final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 5 September 2019.

Phil McMahon
ombudsman