

complaint

Mr C complains that Kapama Limited didn't follow the correct procedures when his debt for a payday loan was transferred to it from a previous company. He wants his debt written off and removed from his credit file. He's also unhappy that a default was recorded on his file. He wants this removed.

background

Mr C had a £100 payday loan with a previous company. Mr C had only repaid £25 of his loan and the previous company had added interest and charges and a default marker to his credit file. He now owed £537. He said he hadn't received the default notice.

The company stopped providing payday loans and debts owed to it were either transferred to Kapama or written off. Kapama was obliged to write to Mr C before the transfer to tell him of this. But Mr C said it hadn't done this. So he thought the debt should be written off.

Our adjudicator thought Kapama had made a reasonable offer to settle the complaint. She thought it had sent Mr C notice that his debt was being transferred to it. She thought Mr C had only repaid £25 of the loan so he had defaulted. She thought it was reasonable for this to be recorded. She asked Kapama to consider the amount Mr C owed. Kapama offered to reduce the outstanding debt to £175 and to arrange an affordable repayment plan for this.

Mr C replied that the documents for his loan, the default and the transfer hadn't been properly issued. He said the loan shouldn't have been provided. He also thought that Kapama was falsifying documents.

my findings

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

Mr C told us that the £100 loan was provided by the previous company at a time when he was in financial difficulties. He said it was the sixth small loan taken from the same company over six months and it was unaffordable for him.

I was sorry to hear of Mr C's difficulties. But Mr C's complaint is against Kapama. It didn't provide the loan and it's not responsible for the lending decisions of the previous company. So I can't consider this further.

Mr C has also said that Kapama shouldn't issue a default notice against him. But I think Kapama has just taken over the recording of the default from the previous company. It hasn't issued a default notice or a new default. I don't think it's done anything wrong.

Mr C has raised concerns about the legality of the documents he was issued by Kapama and the previous company. Mr C has also raised concerns about Kapama's practices. Our adjudicator has already explained that a court would need to decide if the documents are valid by law and therefore whether the debt is enforceable.

But I think it's clear that Mr C was lent £100 by the previous company and only repaid £25. This company's debts were then sold to Kapama and the transfer process was overseen by the regulator, the Financial Conduct Authority (FCA).

From what I've seen, I'm satisfied that Kapama informed Mr C of the transfer of his debt within the required timescale. I've seen a screenshot showing that it wrote to Mr C at his email address by the required date. So I think Kapama's now entitled to ask Mr C to repay his debt. I don't think the debt should be written off or removed from Mr C's credit file.

The original £100 loan grew to a debt £537 with the previous company and this was transferred to Kapama. Our adjudicator thought this was excessive. Kapama agreed and it's offered to reduce this to £175. This was calculated as the £100 principal and £100 interest less the £25 Mr C has already repaid. I agree with the adjudicator that this is a very reasonable offer. It's open to Mr C to accept it if he so wishes.

my final decision

My final decision is that I uphold this complaint in part. I require Kapama Limited to reduce the outstanding balance owed by Mr C to £175, to be repaid in line with affordability, as it's agreed to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 October 2016.

Phillip Berechree
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