

complaint

Ms J complains that Black Horse Limited, ("BHL"), had provided her debt management company with incorrect information which ultimately resulted in a default being incorrectly applied to her credit file.

background

Ms J had taken a fixed sum loan with BHL in December 2007 to finance a car. As Ms J was suffering financial difficulties, she appointed a debt management company ("D1") to assist her in May 2009. BHL agreed that Ms J could make reduced repayments to it under D1's debt management plan. Ms J then appointed another debt management company ("D2") to assist her in January 2012. BHL told D2 in August 2012 that Ms J's debt had been sold to a third party ("T") in June 2012, but she continued to make repayments to BHL until September 2012. Ms J then appointed a third debt management company ("D3") in June 2013. D3 said that it had sent Ms J's authority for it to act on her behalf to BHL in late June 2013, although BHL has no record of this. D3 said that as a result of information provided in three contacts with BHL in April 2012, July 2013 and November 2013, it believed that Ms J's debt had been written off by BHL and that it was no longer collecting it. As a result, D3 advised Ms J that it could be removed from her debt management plan. As no further payments were made towards the debt, T defaulted the account and applied a default to Ms J's credit file.

The adjudicator concluded that BHL had provided confusing or incorrect information to D3. He could see that D3 had advised Ms J to stop making payments on the debt after it said that it had been told by BHL that Ms J's accounts had been written off and should be disregarded. He also noted that BHL had sold the account to T. T had defaulted the account in 2014, and Ms J had started making repayments after she received T's August 2014 letter. So he recommended that BHL should:

- Pay Ms J £150 compensation for the confusing/incorrect information provided to D3 which had ultimately resulted in a default being applied.
- Write a letter of repair to Ms J which she could pass on to T.

BHL disagreed and responded to say:

- Its contact with D3 in April 2012 was merely a general clarification of the terms it used and was not specifically in relation to Ms J's account.
- D3 didn't have authority to deal with Ms J's account in April 2012 and it didn't receive Ms J's authority for D3 to deal with the matter until August 2014. So, it wouldn't have had authority to discuss Ms J's account with it in April 2012.
- In April 2012, it only had authority to discuss Ms J's account with D2. It had received Ms J's authority for D2 to act on her behalf in April 2012.
- The correspondence in April 2012 with D3 didn't relate specifically to Ms J's account.
- It had no evidence that it had decided to write off Ms J's account so that the debt was no longer owed.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Ms J and to BHL on 26 February 2016. I summarise my findings:

As the evidence was incomplete, inconclusive, or contradictory, I reached my decision on the balance of probabilities – in other words, what I considered was most likely to have happened in light of the available evidence and the wider circumstances.

I had seen a complaint letter written on Ms J's behalf by D3 to BHL in early July 2015. D3's letter referred to the three contacts it had with BHL about "written off" accounts. In April 2012, it had raised a general query with BHL as to what was meant by an account being written off. There was no reference to Ms J's account in this correspondence as D3 wasn't acting for her at the time. BHL said in response that a written off account meant it was no longer economical for it to pursue.

The second contact was in July 2013. D3 said that it had received spreadsheet correspondence from BHL regarding Ms J's account which said that her debt had been written off and that BHL was no longer chasing her for the outstanding balance. On the basis of this response, D3 removed BHL's debt from her debt management plan. In November 2013, D3 again sent BHL a generic request for the meaning of an account being written off. There was no reference to Ms J's account in this correspondence. BHL said in response that it meant that it was no longer collecting the debt and it may be safely disregarded.

I had seen evidence of the two contacts between D3 and BHL in April 2012 and November 2013. As these were generic queries with no reference to Ms J's account, I don't regard them as compelling evidence in support of Ms J's complaint. I haven't seen the spreadsheet correspondence from July 2013. But, I have seen BHL's contact notes and there is no reference to this correspondence, nor does it show any contact from BHL in relation to Ms J's debt until August 2014. If BHL hadn't received an authority from Ms J to discuss her account with D3 in July 2013, then, on balance, I don't think that it would have done so.

I had also seen BHL's explanation that it had written off Ms J's account in June 2012 as it had sold it to T. It said that this meant that it had removed the account from its active accounts and that it was a bad debt, but it was still owed for credit record purposes. I don't think that this explanation was inconsistent with the explanation D3 said BHL had given it in July 2013. It was accurate for BHL to say that it was no longer chasing Ms J for the outstanding balance as it had sold the account to T.

I also noted from BHL's contact notes that BHL had told D2 that the account had been sold to T. BHL had acted appropriately by telling D2 about this. I would also have reasonably expected D2 to have told both Ms J and D3 about this. I didn't think I could hold BHL responsible if D2 hadn't done so.

I explained that I had a great deal of sympathy for Ms J as she had stopped making repayments in reliance upon what D3 had told her. And because of this, her account was defaulted. But, from the evidence I had seen, on balance, I didn't think that I had the grounds to find that BHL had acted inappropriately. And as Ms J was concerned about the default on her credit file, I said that it might assist her to file a notice of correction with the credit reference agencies to explain the circumstances of the default.

Subject to any further representations by Ms J or BHL, my provisional decision was that I wasn't minded to uphold this complaint.

Neither Ms J nor BHL has provided a response to my provisional decision.

my findings

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

As I've received no further information in response to my provisional decision, I am satisfied that the proposed resolution in my provisional decision is fair in all the circumstances, and I find no basis to depart from my earlier conclusions.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 3 May 2016.

Roslyn Rawson
ombudsman