

complaint

Ms D complains that she is being pursued by a debt collection agency for repayment of a loan from Career Development Finance Limited which she says she had cancelled.

background

Some years ago, Ms D took out a point of sale loan from Career Development Finance Limited to pay for her career development. The business paid the money to a college for her tuition. Ms D agreed to make monthly repayments of the loan. Ms D says that she cancelled the loan, in writing, within the cooling off period. She did not stop her direct debit instruction immediately, and several payments were made towards the loan. The business pursued the debt. A free debt advice charity wrote to it on Ms D's behalf requesting contact be made only in writing. She next heard of the loan almost three years later when a debt collection company bought the debt from the business and sought to recover it.

The adjudicator did not recommend that the complaint be upheld. There was no evidence that the business had received a cancellation order within the cooling off period. Its terms and conditions advised customers to send such a notice by recorded delivery to avoid any disagreement. Ms D had no record of posting the cancellation instruction. The adjudicator thought that if Ms D had cancelled the loan agreement, she would also have pursued the business for a refund of her repayments. There was no evidence for this.

Ms D responded that she did send a letter of cancellation and had written to the business requesting a refund, but had no response from them. She asked why she had heard nothing further about the debt for almost three years.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I understand that Ms D took out the loan at a stressful period in her life. Career Development Finance Limited's records show that her first contact with it was made some four months later. She explained that she had been away from home since she took out the loan, but said that she had cancelled it. Presumably she did not make arrangements for her post to be redirected during this time while the business was pursuing her for arrears. This would have alerted her that the loan had not been cancelled. The business advised her to contact a free debt advice charity, which she did. Ms D says that she wrote to the business to seek a refund of payments, but received no response. I would have expected her to pursue this further if she was satisfied that she had cancelled the loan.

The business says that it then passed the debt to its collections service. It does not have access to these records and so cannot explain why Ms D heard nothing more about the loan until the debt was sold three years later.

I have looked at the business's records. I am satisfied that the business did not receive written notification of cancellation or a request for a refund from Ms D. It is regrettable that Ms D sent her letters, as she says she did, by normal post rather than recorded delivery, as the business advised.

I am therefore satisfied that the loan was not cancelled during the cooling off period. This is disappointing for Ms D as she did not pursue the career development she enrolled for, but she still owes the debt. Career Development Finance Limited is within its rights to pursue the debt owed to it. It has not made an error in selling the debt to a collections agency. I encourage Ms D to contact the agency to agree an affordable repayment plan.

my final decision

My decision is that I do not uphold this complaint.

Phillip Berechree
ombudsman