

complaint

Mr R complains about the way in which Opos Limited (Opos) is collecting a debt. He says the debt was sold irresponsibly and wants the default removed from his credit file. He feels the call handler who dealt with his complaint was threatening.

background

Mr R tells us that in 2013 he took out a loan with a company which is now in liquidation - which I'll call M. At the time he says he was in the grip of severe financial difficulties and had numerous loans from different sources. He says he was borrowing from one pay day lender simply to pay another. So he thinks M was irresponsible when it lent money to him.

Eventually, he says the loan was sold to a new owner K. He says K has passed the debt to Opos for collection. When he tried to speak to Opos and explain the circumstances in which the loan was taken - he says they showed no interest - and aren't willing to remove the entry from his credit file. He feels the call handler was threatening. He wants interest charges on the original loan refunded and the record of default removed from his credit file.

In its final response letter Opos set out the history of the loan going back to 2013. And it explained in detail the nature of checks carried out and the criteria by which a decision to offer a loan was judged. (I'll not go into these because - as I explain later - I'm not able to look at affordability or whether the loan was made irresponsibly). It rejected any criticism of the way the call handler had dealt with Mr R. It went on to explain that K had purchased the debt in 2014 and a notice of assignment had been sent to Mr R. It said neither K nor Opos had applied any further charges since the debt was acquired. And under the law that applied at the time the level of charges was not unlawful. Mr R, it said, had entered the agreement to pay the principal sum and any interest and charges.

It concluded that as neither it (nor K) had added any charges it had no obligation to reduce the outstanding balance. But it did say it would try to reach a resolution with Mr R if he made contact to discuss a possible settlement figure. And it further offered the possibility of a payment arrangement being made in line with what Mr R could afford.

Mr R didn't accept this and so complained to us.

The adjudicator did not recommend this complaint should be upheld.

She explained that we couldn't consider a complaint against M as it was in liquidation and there was unlikely to be any funds remaining after this process. When K bought the debt it did not buy the liability (for how the debt was sold). So we can't look at the original decision to lend against either Opos or K. But as Opos is collecting the debt on behalf of K we can look into the way this is being done.

And the adjudicator said she'd listened to the phone recording between Mr R and the call handler. She didn't consider the call handler to be threatening or abusive. Instead she found there were misunderstandings on both sides. And this had led to Mr R becoming understandably frustrated. The adjudicator felt the call handler had done what was expected in the circumstances - in advising Mr R that court action was possible.

So far as his credit file was concerned - whilst appreciating that Mr R had experienced a stressful couple of years - she said Opos was required to report true and accurate

information to the credit reference agencies and she wasn't in a position to ask them to remove this.

And though she would've asked Opos to remove any additional charges applied since the debt was acquired - she noted that none had been imposed. Indeed she said a downward adjustment had been applied - so she wouldn't be asking it to do anything else.

Mr R wasn't satisfied with this outcome and asked that an ombudsman make the final 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.

I understand that Mr R now accepts that the complaint against Opos can't directly look at the role M played in making this loan. And that M may be subject of a separate complaint. So I'm afraid that means I can't look at whether the loan was made irresponsibly or not.

I entirely accept that Mr R has experienced a good deal of anxiety and stress over the past few years. It can't have been easy trying to handle his financial difficulties. But it's difficult for all parties involved to discuss debt. The borrower feels under pressure and the lender has a responsibility to ensure the borrower understands the consequences of late payment or non-payment. So the potential for conflict and misunderstanding is there for all to see.

I've listened to the relevant phone call and the handler, in my view, has simply tried to convey the information that non payment could lead to court action. I don't doubt that Mr R found this threatening - most of us would. But that's not the same thing as saying the call handler was threatening. She's just the messenger passing on unpleasant but truthful information.

And given that Opos hasn't added any charges since the debt was acquired - I can't reasonably ask them to refund anything. Nor can I require them to remove the adverse entry on Mr R's credit file - as it's accurate and as things stand he's liable for the debt.

So whilst I know it will come as a disappointment to Mr R. I'm in agreement with our adjudicator - and for the same reasons - that this complaint should not be upheld.

I'll conclude by saying that it remains open to Mr R to contact Opos and try to resolve the matter as it suggested - but that's entirely a matter for him.

my final decision

For the reasons given above I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 11 September 2017.

Stephen D Ross
ombudsman