

complaint

Mr F complains that Clydesdale Financial Services Limited (trading as Barclays Partner Finance) has unfairly recorded adverse payment information on his credit file.

background

Some years ago, Mr F entered into a finance agreement with Barclays Partner Finance (BPF) to fund a training course. The provider of the course ceased trading, and Mr F raised a breach of contract claim against BPF. Following our involvement, BPF agreed to take responsibility for arranging a replacement course. Mr F says he was unable to agree suitable arrangements with BPF. Ultimately, he never went back into training and didn't make any payments towards the outstanding finance.

More recently, Mr F's found that BPF's recorded default information on his credit file. He says he wasn't aware of this at the time, and that the adverse information's cost him two job offers. He's seeking compensation for lost earnings, and wants the default to be removed.

Our adjudicator noted Mr F hadn't made any payments at all towards the finance. That was an event of default. BPF had issued Mr F with notice of default in 2010. It had proposed to backdate the default record on Mr F's file to that point, which would mean it would fall off his credit file as of October 2016. The adjudicator thought BPF had done enough in terms of proposing a suitable alternative training programme. The decision not to proceed had been Mr F's. So overall, she didn't feel she could recommend that BPF take either of the actions he was seeking.

Mr F didn't accept the adjudicator's conclusions. He asked for this review. In doing so, he said that there was no sense in his paying the money for nothing in return, maintaining his view that BPF was in breach of contract for non-provision of the training course. Mr F also asked that I be informed that BPF had failed to comply with a data subject access request he'd made to it. The central point of that request appears to have been to obtain a copy of any default notice BPF might have sent to Mr F in 2012. Mr F tells me that BPF has since acknowledged to him that it didn't send him such a notice at that time, having sold the debt to a third party.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not going to require BPF to do anything further to resolve Mr F's complaint. I'll explain why.

the alternative training course provision

It's common ground that BPF undertook to perform the contractual obligation of providing Mr F with a suitable alternative training course after the original provider failed to do so. As this responsibility was covered by my ombudsman colleague, Simon Rawle, in his decision in 2011, I don't think it's necessary to do more than restate his conclusion that the alternative course BPF sourced was a satisfactory replacement.

Mr F's current complaint is founded on what he perceives as a breach by BPF of that obligation. In my view, the steps BPF took to accommodate Mr F by extending the loan terms and study completion period were evidence of its willingness to perform the

contractual obligation. The main reason Mr F didn't receive the course is down to his own decision not to proceed. With this in mind, I think it's unlikely an attempt by Mr F to pursue a breach of contract claim against BPF would be successful.

default registration

There's no suggestion of any agreement with BPF that Mr F might defer his payments towards the finance indefinitely. And I don't share his view that the failure to proceed with the course is BPF's responsibility, or that it entitles him not to repay the money BPF lent him to pay for the course. Given that Mr F hasn't made any repayments since taking out the finance more than seven years ago, I don't think it's unfair for his credit file to say he's in default.

I'm aware, of course, that Mr F has mentioned BPF's recent acknowledgement that it didn't send him notice of default in 2012. I don't consider that a critical point. It's clear that BPF did issue such a notice to Mr F in September 2010. Looking at the circumstances surrounding Mr F's earlier complaint to us, I think what's happened here is that BPF held off recording the default pending the outcome of that complaint and connected correspondence. I've seen BPF's letter to Mr F dated 17 August 2012, telling him that payments are due to resume and that any failure to pay would be recorded on his credit file.

Taking all of this into account, I don't think the lack of a second default notice prevented Mr F from taking steps to avoid registration. And there's nothing that leads me to think he'd have acted differently if BPF had issued such notice. Overall, I think in backdating the default registration to 2010, BPF's done as much as it needs to do to resolve the complaint.

my final decision

For the reasons I've explained here, I'm not going to uphold Mr F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 9 January 2017.

Niall F Taylor
ombudsman