

The complaint

Mr H complains Experian Limited have refused to delete his personal information.

What happened

Mr H asked Experian to remove all the data they held about him – explaining he would like his credit report information deleted and he wished to '*be forgotten*'. As Experian wouldn't do this, Mr H raised a complaint.

Experian responded, explaining they were unable to fulfil Mr H's request as they held a legitimate interest in holding the information. They went on to say the data they collected and held was done so in line with General Data Protection Regulations (GDPR) and this included data they didn't require Mr H's consent to keep.

Unhappy with their response, Mr H raised his concerns with our service.

Mr H explained he didn't use credit cards or debt of any form, and as such, wanted to be removed from Experian's database. He said he didn't trust Experian not to sell his data, and as he'd previously been impacted by data breaches this was causing him a great deal of worry and stress.

An Investigator here reviewed matters and concluded Experian hadn't acted unfairly. They explained why Credit Reference Agencies (CRA's) such as Experian were able to hold Mr H's information and overall didn't think Experian had done anything wrong in doing so.

Mr H disagreed, he felt strongly that it was wrong for Experian to keep information on him, saying it should be the individual who has the deciding power over their personal information. He also said he was not trying to hide a bad credit history – a reason a CRA may choose to retain his credit information.

With no resolution, the case was passed to me to decide.

What I've decided – and why

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

Before I set out my findings, it may help to explain this service is an alternative dispute resolution set up to resolve individual complaints based on what is fair and reasonable in the circumstances of each case. Therefore, the Financial Ombudsman Service does not fine or punish businesses, or request that their processes or practices are changed, that is for the regulator to consider. I say this because many of Mr H's concerns centre around the CRA industry as a whole – but it's not the role of our service to address industry wide concerns.

When deciding what is a fair and reasonable resolution to a complaint, I must take into account any relevant law and regulations; regulators' rules, guidance and standards; codes

of practice and (where appropriate) what is considered to have been good industry practice at the relevant time.

With this in mind I've considered guidance from the Information Commissioner's Office (ICO) when deciding whether Experian have acted fairly. Mr H has asked our service to require Experian to delete his personal information – but this isn't something I'm able to ask Experian to do. While I understand under certain rules, individuals do have the right to have personal data deleted – also known as *the right to be forgotten* – the ICO says, '*The right is not absolute and only applies in certain circumstances.*' I think it would also be useful to refer here to information from the ICO, that can be found on their website, and was also shared with Mr H by Experian, this says:

Do the CRAs need my consent to hold all this information on me?

No. Data protection law doesn't actually require the CRAs, or any other organisation, to have your consent before they are allowed to process your personal data. They can use it without consent if they have a valid reason and as long as you have been told what is going to happen to your data. These reasons are known in the law as a 'lawful basis', and there are six lawful bases organisations can use. If you have taken out a loan or credit card you will probably find details of this in the original terms and conditions that you signed.

CRA's are required to abide by various financial regulations and ultimately, I'm satisfied that Experian have followed these when considering Mr H's request. While they've chosen not to delete his information, that's a decision they are entitled to make, so I don't think they've acted unfairly in this regard. I've also not seen anything to suggest that Experian have knowingly or willingly breached data protection rules in taking the actions they did.

In the circumstances, I think it would be helpful to explain that Experian don't own the data they report on – the data is owned by lenders and other third-party companies. This means Experian aren't generally responsible for the data provided, but must ensure the data is accurate, and investigate this when a dispute is raised.

As such, if Mr H has any concerns that the companies who've shared his data with Experian have done so incorrectly, he'll need to contact those companies directly.

Mr H has said he doesn't use credit cards or debt of any kind, and while that may be the case as it stands today, this doesn't mean his record should be deleted. I've seen a copy of his credit report from April 2023, that he applied to Experian for, and this shows various accounts for products including current accounts and mortgages, from as recently as 2022. In addition to the rules mentioned above Experian are required to retain certain information for set periods of time – and in Mr H's case, those timeframes haven't yet elapsed. So I can't say they've done anything wrong for not deleting Mr H's information for this reason either.

Mr H has referred to previous data breaches, however he's confirmed these were by third party companies. So while I understand this would cause concern, it's not something I can hold Experian responsible for – or require them to delete data on the possibility of it happening again. Experian have confirmed they've suppressed Mr H's details, meaning they aren't used in direct marketing, which seems reasonable in the circumstances. Should Mr H want to know more about how Experian handle his data, I'd suggest he contact the ICO directly, if he hasn't done so already.

My final decision

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 26 February 2024.

Victoria Cheyne
Ombudsman