

complaint

Mr H has complained that Provident Personal Credit Limited sold a debt to a third party in 2014, which he didn't owe.

background

Mr H took out a loan with Provident in 2008, which he says he repaid in 2009. However, this loan was later sold on to a third party, which is now chasing payment.

Our adjudicator recommended that the complaint should be upheld, as he wasn't satisfied that Provident had proved the debt was owed. Provident disagreed, so the complaint's been passed to me for my 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.

Unfortunately, there's very little evidence for me to look at. Both Mr H and Provident have provided conflicting accounts of events, including descriptions of the car of the person who was collecting the debt, and whether it was a man or a woman.

I can see that there's a loan agreement, so am satisfied that the debt was owing at some point. However, as it would have been collected in cash, I can't look at bank statements to determine what was paid and when. Nor is that any manual or computerised record of payments.

I understand Provident's point that it doesn't have all of the paperwork, as it's only required to keep it for six years. On the other hand, regulatory guidance sets out that a company mustn't make demands for money without being able to provide clear justification or evidence that it's owed. In this case, Provident hasn't proven to my satisfaction that the debt is still outstanding.

Because of this, I think Provident should buy the debt back from the third party, and write it off. If for any reason the third party won't sell the debt back, Provident must settle it directly. It must also amend Mr H's credit file to show that it was paid off in 2009, as Mr H has said.

my final decision

For the reasons given above, it's my final decision to uphold this complaint. I require Provident Personal Credit Limited to:

- a) buy the debt back and write it off, or settle it directly; and
- b) amend Mr H's credit file to show it as having been paid off in 2009.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 October 2015.

Elspeth Wood
ombudsman