

The complaint

Mr B has complained about Equifax Limited reporting a disputed default on his credit file.

What happened

A debt purchaser, which I'll refer to as "P", are reporting a defaulted debt on Mr B's file. They bought the debt from the original lender, who had already defaulted the account. So they have continued to report the same default.

Mr B disputes the entry, as he says that he had a repayment arrangement with the original lender, and that they didn't send him the proper notice.

Equifax raised disputes on Mr B's behalf, but P confirmed that the information was correct and they did not consent to it being changed. Equifax relayed this to Mr B and explained they couldn't change the data without P's permission. They also apologised for not initially responding to one of Mr B's emails.

Mr B came to our service. As the original lender had since gone out of business, he thought Equifax were the best party to bring the complaint against. He felt he could not have been lawfully defaulted if he was keeping up with a repayment plan.

Our investigator looked into things independently and didn't uphold the complaint. They explained that Equifax really couldn't change the data without the data owner's consent.

Mr B asked for an ombudsman to look at things afresh, so the complaint's been 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.

I do understand why Mr B thought to bring his complaint against Equifax. But I'm afraid they weren't really the right party to come to us about. In a complaint against Equifax, I can only consider what Equifax did. I cannot hold them responsible for another, separate business's historic actions – such as the original lender's choice to default Mr B. That was done by the original lender, not by Equifax.

Further, Equifax do not own the data on Mr B's credit file. It's the companies who log the data – like Mr B's lenders and utility companies – who own that data. So here, it's P who own the entry about the default. And P are responsible for their own entry. Essentially, Equifax are not allowed to change or remove that entry without P's permission.

Of course, when a customer queries an entry, I'd expect Equifax to raise that dispute with the data owner on the customer's behalf. And I can see that Equifax did that here, twice. But both times, P confirmed that the information was correct, and they did not consent to it being changed. Equifax were not able to change it in this case.

If Mr B would like P's credit file entry to be changed, then he would be better off disputing it with P directly. He might then be able to bring that complaint to our service so we can look into it independently. Alternatively, he might be able to raise a complaint about the original lender's actions with their administrators, which our investigator gave him the details for.

I've also considered how Equifax handled things for Mr B. I can see they didn't initially respond to one of his emails, which understandably gave him the impression he was being ignored. I can see that Equifax explained what happened there and apologised, which I think is sufficient to deal with that issue. And I find that they otherwise broadly handled things as they should have.

Lastly, I thought it would also be helpful for me to give a more general explanation about defaults. I understand Mr B feels strongly that it would be unlawful for a lender to default him while he was in a payment arrangement. But lenders can potentially still default customers who are in payment plans, for example if the repayments they're getting are much lower than the account's contractual minimum payments – token £1/month payments are a common example. Of course, in this complaint about Equifax I've not investigated what happened between Mr B and the original lender – who are a separate business to Equifax. So I've not made any findings on whether that lender did the right thing or not, or whether this default is correct or not. But I hope that provides some useful context.

My final decision

For the reasons I've explained, I don't uphold Mr B's complaint about Equifax Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 September 2023.

Adam Charles
Ombudsman