

The complaint

Mr W complains about Hoist Finance UK Limited and the way they pursued him for payment of a debt he didn't think was enforceable.

What happened

In July 2015, Hoist purchased Mr W's debt from another third-party company, who I'll refer to as C, that had been generated from a credit card account he held with Lender B.

Hoist, using an agent working on their behalf, then attempted to contact Mr W to arrange a payment plan to settle the outstanding debt. But Mr W disputed that the debt was his and requested a copy of the original credit agreement before discussing any payment plans further. Hoist sent a copy to Mr W in May 2016, but Mr W didn't receive this. Hoist then went back to Lender B to request another copy to forward to Mr W so they could continue to arrange a payment plan.

Hoist continued to contact Mr W to arrange a payment plan. But Mr W maintained he hadn't received a copy of the original credit agreement so disputed that the debt they referred to was his. In 2019, Hoist instructed solicitors to pursue Mr W for the amount. Mr W spoke to the solicitors directly and explained he hadn't been provided with the agreement he requested, so they agreed to pass the debt back to Hoist. Mr W also raised a complaint with Hoist directly.

Mr W complained that Hoist were pursuing him for payment on a debt that wasn't enforceable as it'd been more than six years since the last payment he'd made to the account. He was also unhappy that Hoist had failed to provide him with the original credit agreement for several years and because of this, had continued to chase him for payment. This had resulted him in being stressed and anxious about the potential action that might be taken against him. So, he wanted Hoist to stop pursuing him for the outstanding debt and to pay compensation for the inconvenience he'd been caused.

Hoist didn't agree. They thought the debt was enforceable as Mr W had been making payments to C up until 2015, so it hadn't been six years since he'd made a payment towards the account. They also thought they'd provided the credit agreement as requested in 2016, so they didn't think they had done anything wrong. And because of this, they thought the debt was still outstanding and a payment plan needed to be agreed.

Mr W wasn't happy with this response. He maintained he thought the debt wasn't enforceable and that he shouldn't have to pay anything more. He also maintained Hoist had failed to provide him with the credit agreement that he'd requested. As Mr W remained unhappy, he referred his complaint to us.

Our investigator looked into the complaint and initially upheld it. Whilst she thought the debt was enforceable as she'd seen Mr W had made payments to C until 2015, she didn't think Hoist had done enough to provide Mr W with the original credit agreement after Mr W explained he hadn't received the copy sent in May 2016. So, she thought Hoist should pay Mr W £50 to recognize the impact this caused him.

But Hoist didn't agree and provided evidence to show a second copy of the credit agreement was sent to Mr W in January 2017. Our investigator thought, as this evidence was addressed correctly to Mr W, and Mr W had received other correspondence posted to him, it was more likely than not that Mr W had received a copy of the original credit agreement. So, she thought Hoist had acted reasonably and didn't think they needed to do anything further.

Mr W didn't accept this. He explained that Hoist had sent him letters after January 2017 explaining they were trying to obtain a copy of the original credit agreement from Lender B. So, he questioned why they would do this if a second copy had already been sent. And he thought Hoist had still taken too long to respond to his request for a copy of the agreement and wanted this to be considered. As Mr W didn't agree, the complaint has been passed to me for a decision.

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. Having done so, I'm not upholding the complaint for broadly the same reasons as the investigator.

First, I want to recognise the impact this complaint has had on Mr W. I've no doubt that being contacted by a company he doesn't know about paying a debt would be confusing and concerning. And I'm aware this came after he'd had to enter into a previous payment plan with C due to difficulties he faced with his credit card account held with Lender B. I'm also aware of how long this issue has been outstanding and how this would've made the stress he felt worse. But for me to say that Hoist should write off Mr W's debt and consider compensation for the impact he'd suffered, I'd need to see that Hoist had acted either unfairly or unreasonably. And in this situation, I don't think that's the case.

Before I consider the actions Hoist took when seeking to arrange a payment plan with Mr W, I've considered whether the debt itself was enforceable in the first place. I understand Mr W doesn't think it is as he feels he hasn't made a payment to the account since 2012 meaning it's outside of the six-year period. But I don't think that's the case. I've seen evidence to show Mr W made monthly payments of £15 to C, the company who managed Mr W's account and the outstanding debt up until 2015. I do understand Mr W's confusion as he last made a payment to Lender B who provided the original credit card account in 2012. But Lender B transferred this debt to C and so any payments he made to C count towards the six-year period of enforceability. So, I think the debt is enforceable and Hoist were fair to contact Mr W to arrange payment.

But I'm aware Mr W also disputed the validity of Hoist and whether the debt was his. He explained he'd been a victim of identity theft previously so requested a copy of the original credit agreement before agreeing to a payment plan. I've seen Hoist provided the first copy of this in May 2016 and it was sent to Mr W's correct address. But Mr W says he didn't receive this, and he requested a further copy from Hoist.

I've seen Hoist sent a second copy to Mr W in January 2017, again to the correct address. But Mr W says he also didn't receive this. As part of this decision, I must consider, based on balance of probability, what I think is most likely to have happened. And in this situation, both copies of the agreement were sent to the correct address for Mr W. And Mr W had

received other letters sent by Hoist before and after this event. So, I think its most likely that Mr W did receive a copy of the original credit agreement. And I also don't think it would be fair for me to say Hoist have done anything wrong as they provided Mr W with the documents twice and I don't think they could've done anything more.

But I have considered the point Mr W raised about Hoist chasing Lender B for a copy of the credit agreement after January 2017, when it had already been sent. I can understand why Mr W thinks this is conflicting information. But I've seen in March and April 2017 there was dialogue between Mr W and Hoist confirming the second copy had been sent in January 2017. So even though the information provided by Hoist was conflicting, I don't think it impacted Mr W. As I've already explained, I think its more likely than not that the credit agreement was received as it was sent to the right address on two occasions. So, I don't think it would be fair for me to say Hoist have done anything wrong.

I'm also aware that when Mr W queried the credit agreement, Hoist updated Mr W through email, including the reference number of the account and the date of the last payment to Lender B. As Mr W had already entered into a payment plan with C before Hoist purchased the debt, Mr W would've been reasonably aware that account had an amount outstanding. So, I think Mr W should've realised with this information that Hoist were looking to organise a payment plan for the same debt.

So, after providing Mr W with two copies of the credit agreement and a fair amount of information to identify the debt they were looking to recover, I think Hoist were fair to continue and escalate this activity when no payment had been received for a significant amount of time. That's not to say I don't recognise the worry Mr W would've experienced when he received collection letters and contact from a solicitor. But I don't think this worry has resulted from anything Hoist did wrong. So, I don't think Hoist need to do anything further.

My final decision

For the reasons outlined above, I don't uphold Mr W's complaint about Hoist Finance UK Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 10 August 2020.

Josh Haskey
Ombudsman