

The complaint

Mrs K complains that Mortimer Clarke Solicitors Limited (Mortimer Clarke) unfairly threatened to take legal action to recover a debt.

What happened

Mortimer Clarke was instructed by a third party business to collect a debt in Mrs K's name. The original debt came about by way of an unsecured loan. Mortimer Clarke wrote to Mrs K in 2015 and gave notice of its intention to take legal action to recover the debt. Mortimer Clarke says no payment plan was agreed so it took the decision to pursue the matter in court. But Mortimer Clarke didn't refer the matter to the courts and it remained on hold.

In December 2020 Mortimer Clarke contacted Mrs K again and asked her to clear the outstanding balance. Mrs K made a partial settlement offer but it was rejected. Mortimer Clarke made a counter offer and Mrs K asked for more time so she could raise funds via a remortgage. Mortimer Clarke told Mrs K it would continue to pursue legal action unless she could make a payment to settle the debt.

Mrs K complained and Mortimer Clarke sent a final response. Mortimer Clarke apologised for incorrectly telling Mrs K its client had issued instructions to obtain a County Court Judgement (CCJ) and offered £150 for the distress and inconvenience caused.

Mrs K later agreed a payment plan and Mortimer Clarke and referred her complaint to this service. In its file submission, Mortimer Clarke confirmed it wanted to increase its offer in recognition of the distress and inconvenience caused to £300. Our investigator thought Mortimer Clarke's offer was a fair way to resolve Mrs K's complaint but she didn't agree and asked to appeal. As a result, Mrs K's complaint has been passed to me to make 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.

I've been reasonably brief in setting out the background above as all parties broadly agree concerning the key events in this case. I want to assure Mrs K I've read and considered everything she's told us in submitting her complaint. I've focused on what I think are the key issues in this case – an approach that reflects the informal nature of this service.

I agree the service provided by Mortimer Clarke was poor at times. Mortimer Clarke contacted Mrs K about repayment in 2015 and 2016 but then appear to have done nothing to collect the debt until December 2020 when it wrote to her. And Mortimer Clarke has confirmed it didn't have an instruction to pursue Mrs K in court when it spoke with her last year. Mrs K has explained the threat of legal action caused an unreasonable level of distress and I don't doubt that's the case. I'm please Mortimer Clarke has now reached an affordable payment arrangement with Mrs K.

I need to decide how to fairly resolve Mrs K's complaint. Whilst I agree the service provided was poor, Mortimer Clarke recently increased its offer to settle Mrs K's complaint from £150 to £300. I've considered everything Mrs K has told us about how the situation affected her and the upset caused by Mortimer Clarke's actions.

Whilst I know my decision is likely to come as a disappointment to Mrs K, I'm satisfied the increased offer is a fair way to resolve her complaint. In my view, £300 reflects the impact of the issues raised and distress caused to Mrs K. As Mortimer Clarke has already made an offer that is fair and reasonable in all the circumstances, I'm not telling it to increase the settlement or take any further action.

My final decision

My decision is that I uphold Mrs K's complaint and direct Mortimer Clarke Solicitors Limited to pay a total of £300 (less any compensation already paid).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 13 April 2022.

Marco Manente
Ombudsman