

The complaint

Mr S complains that BW Legal service Limited (BW Legal) continued to incorrectly pursue him for a debt even after he disputed it without proving to him it was his debt.

What happened

Mr S was the victim of fraud back in 2017. There were various fraudulent transactions carried out with his bank card, which luckily his bank refunded to him. Mr S didn't report the crime to the police at the time as he presumed the bank would have.

Sometime after this and Insurer contacted him about an outstanding payment. Mr S told the insurer he thought the policy related to the fraud and thought no more of it. However, the insurer didn't close the account and the debt remained on the policy – which had been taken out in Mr S' name for purposes of payment.

The insurer later sold the account on to another firm, who I'll call J. J sent Mr S a Notice Of Assignment (NOA) letter in December 2022, confirming this. J then instructed BW Legal to act on its behalf to recover the debt.

BW Legal wrote to Mr S seeking repayment. Mr S responded on 2 February 2023 disputing the debt and asking BW Legal to cease contact regarding the account without first providing evidence of his liability. BW legal responded on 3 March 2023, in the response they said if Mr S believed the account was not in relating to him, he should contact Action Fraud to report the matter and provide BW Legal with a crime reference number so they could look into it. Mr S didn't respond to this.

In between Mr S' dispute and BW Legal's response a standard automated letter was issued offering a discount on the debt if should be paid. A similar letter was sent again on 24 March 2023. On 29 March 2023 BW legal contacted Mr S and provided the insurance policy details it thought showed Mr S was responsible for the debt.

Mr S sent two further emails to BW Legal in March and April 2023 through an online complaints platform, which unfortunately weren't processed correctly and so BW Legal didn't receive them.

BW Legal sent two further letters regarding the recovery of the debt in April and May 2023. And on 22 May 2023 Mr S wrote to BW Legal again disputing the debt and explaining that he had no knowledge of the insurance policy it related to. BW Legal responded to Mr S explaining they had now put the account on hold and had requested more information from J regarding the account.

Mr S complained to BW Legal, through this service, he was unhappy they were trying to collect a debt he wasn't liable for and felt their contact with him had been harassing and threatening in nature. BW Legal didn't uphold Mr S' complaint but did confirm they had returned the account to J. Mr S remained unhappy and so he asked this service to look into things, he explained he wanted specific actions to resolve the issue. I've summarised these:

- For BW Legal to apologise to Mr S and compensate him

- For this service to make the Financial Conduct Authority (FCA) aware of BW Legal's wrong doings
- Inform him of the actions taken against BW Legal by the FCA

Our investigator didn't think Mr S' complaint was one that should be upheld, in summary they said:

- BW Legal was acting on information provided to them by J when pursuing Mr S for the debt. J in turn bought the debt from the insurer in good faith, so neither BW Legal nor J would have known it related to fraudulent activity.
- The letters BW Legal had sent to Mr S were not high in volume, to be considered harassing nor threatening in nature.
- BW Legal had acted fairly when continuing to chase Mr S for the debt they believed to be his. As once they had provided Mr S with the insurance policy information, they assumed he had recognised the debt as they hadn't heard back from him with a crime reference number or any further dispute, until they received his letter in May 2023.
- BW Legal had in their final response apologised to Mr S for any inconvenience and upset caused.
- J had confirmed to this service that the insurer had accepted the account stemmed from a fraudulent transaction and it had now been closed and any entries on Mr S' credit file from it or the insurer would be removed.

Mr S disagreed with our investigator's findings and so the matter has 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 realise that I've summarised this complaint in less detail than the parties and I've done so using my own words. I've concentrated on what I consider to be the key issues. The rules that govern this service allow me to do so. But this doesn't mean that I've not considered everything that both parties have given to me.

I feel I must explain that I will only be considering BW Legal's actions here. The actions of both J and the insurer are separate, and Mr S will need to raise issues with them separately if he believes they have acted unfairly towards him.

BW Legal were instructed by J to collect a debt on its behalf. It gave BW Legal the information relating to the debt, including the name of the debtor as it was sold to them. Acting in good faith on this information BW Legal contacted Mr S to ask for payment. But this wasn't the first time Mr S had been contacted about the debt. The Insurer had contacted him previously and when he disputed the debt with them, they have told us they asked him for a crime reference number in order to close the account – which he didn't provide. He was then contacted by J directly telling him they had purchased the account. Given this I think Mr S had two opportunities to clear this matter up prior to BW Legal being engaged. And had he reported the matter to the police when the insurer first approached him about the debt the account would likely have been closed much sooner so I don't think the initial contact from BW Legal was unjustified. I'm also satisfied Mr S was aware there had been an insurance policy fraudulently taken out and that a debt was outstanding on it, So I don't think it would have been a complete surprise when BW Legal contacted him about it.

I now need to think about how BW Legal acted after this and once Mr S had contacted them disputing the debt in February 2023.

Mr S email does say that he disputes the debt but doesn't go as far as to say he thinks it was related to the fraudulent activity he was subject to in 2017. So, there was very little for BW Legal to look into at that point – I can see from their response though they asked Mr S to report it to Action Fraud to get a crime reference number if he felt the debt wasn't his. Mr S has told us he didn't do that. I can see BW Legal also asked J for more information about the debt so this could be provided to Mr S, to show what the debt related to. At this point they weren't aware of the fraud so providing details of the original debt would be standard practice, as people do sometimes forget about accounts or policies they've had.

BW Legal did send standard letters to Mr S offering discounts to clear the debt, monthly from March to May. But when they received his letter in May, they placed a hold on the account. I understand Mr S thought he had sent emails prior to this but as noted above these were not sent correctly through the external complaints platform and so BW Legal didn't receive them. Had they received them I think they would have acted sooner to place the account on hold, I say this because this is what they did when they received the letter in May. And while I accept the monthly letters would have been frustrating for Mr S, given he thought he'd been writing to them, I can't hold BW Legal accountable for not responding to or acting on emails they didn't receive. Because of this I can't say it was unfair for them to continue to write to Mr S in the in between time.

Mr S has said he found the contact from BW Legal to be threatening and deceptive in nature, but I haven't seen anything that supports this. The contact is not excessive and its factual in nature – in that there was an outstanding debt relating to an insurance policy that was taken out with Mr S named as the person responsible for paying for it. BW Legal had no way of knowing at that time that it related to fraudulent activity. So they thought they were corresponding with the correct person, and correctly highlighted the possible repercussions of not paying the debt, such as Mr S' credit file being affected. Based on what I've seen I can't fairly say I found the correspondence to be threatening or deceptive.

BW Legal returned the account to J. And I'm pleased to see that the insurer has since accepted the debt related to fraudulent activity and so both it and J have closed the account. This means Mr S shouldn't receive any further contact regarding it and it shouldn't affect his credit file.

Given all of the above I'm not upholding Mr S complaint about the contact BW Legal made with him regarding the debt. I understand Mr S' strength of feeling about this and know he will be disappointed with this outcome. But my decision ends what we – in trying to resolve his dispute with BW Legal – can do for him.

My final decision

For the reasons given above, my final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 February 2024.

Amber Mortimer
Ombudsman