

complaint

Mrs H complains that Lowell Financial Ltd has asked her for payments towards a debt it owns, despite it being part of a debt relief order.

Mr H is representing Mrs H in this complaint.

background

On 5 November 2016 Lowell wrote to Mrs H to inform her her debt previously held with Shop Direct, for £538.63, was now legally assigned to it. On 10 November 2016, Mr H wrote to Lowell to notify it of Mrs H applying for a debt relief order (DRO) to include the Shop Direct debt. The DRO was granted on 11 November 2016 and Mr H wrote to Lowell on 19 November 2016 to notify it the debt was now included in the DRO.

Lowell says it didn't receive either of the letters written by Mr H. And between it acquiring the debt and contacting Mrs H in July 2017, it wrote to her 14 times about the amount outstanding. As it never got a response it employed tracing agents to locate Mrs H's whereabouts. It was as a result of this that Lowell obtained a new address for Mrs H and wrote to her in July 2017 about making payment towards the debt.

Mr H subsequently contacted Lowell to explain the debt was part of the DRO and complained as this had caused Mrs H distress, who was and is unwell. Lowell placed the account on hold so no further payment requests were made. Lowell contacted the Insolvency Service to check the status of the debt. Its records show the Debt Relief Unit couldn't locate a debt for Lowell for £538.63. So Lowell didn't uphold the complaint.

Mr H contacted Lowell again on 4 September 2017 as he hadn't had a response to the complaint. As Mr H was sure the debt was included in the DRO Lowell again placed the account on hold. And on 5 September 2017, Mr H informed Lowell the debt might be on the DRO under a different name – NCO. The complaint was re-opened as Mr H didn't think Lowell had done enough to investigate it. During this time, Lowell made the decision to close the account. On 12 September 2017 Lowell replied to the complaint to explain it had contacted the Insolvency Service again but the debt still couldn't be located on the debt relief order. It did, however, explain the debt would be added and marked as partially satisfied on Mrs H's credit file when the order expired.

Not happy with the outcome Mr H brought Mrs H's complaint to this office. And when sending its file, Lowell apologised for the incorrect information given to Mr H in its correspondence of 12 September 2017, as by that time it was aware the debt was part of the DRO.

One of our investigators looked into the complaint. He concluded that Lowell hadn't done anything wrong. There was no evidence Lowell had received Mr H's earlier letters about the DRO and the debt wasn't recorded as being with Lowell on the DRO, it was under a previous debt collector's name and for a slightly different amount. He also found that Lowell hadn't treated Mrs H unfairly in attempting to collect the debt and it had placed all collection activity on hold whilst this was looked into, corresponded with Mr H and marked the debt as partially satisfied and closed the account due to Mrs H's ill health.

Mr H doesn't think the complaint has been looked into fairly. He says he sent the letters in 2016 and wants evidence to show the account was closed due to Mrs H's ill health and not due to him being right about the debt being included in the DRO. Mr H also thinks the collection letter was aggressive and it only spoke with him about the debt after it he asked it to. He also believes Lowell only closed the account after he threatened it with harassment and legal action. It considers that if Lowell was concerned about Mrs H's health it would've looked into the matter more quickly.

my findings

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've decided I'm not upholding this complaint. I explain why below.

Mr H is correct that people shouldn't be asked to make payments towards a debt that's been included in a DRO. However, it seems to me the situation with Lowell has arisen purely because of unfortunate timing and how the debt was recorded on the DRO.

It would appear Shop Direct previously had a business collecting the debt on its behalf – NCO. It sold the debt to Lowell in October 2016 with Lowell Portfolio I Ltd becoming the legal owner of the debt on 5 November 2016 and it appointed Lowell to collect the outstanding balance.

Mrs H applied for a debt relief order. It's not clear whether this happened before or after she was notified that Lowell was now the owner of the debt. But it would appear the debt was recorded as being with NCO for £539 rather than with Lowell for £538.63. Whilst these might be small differences it does explain why the Insolvency Service couldn't find a debt for Lowell on the DRO when asked by it. And as Lowell didn't appear to be connected to any of the debts on the DRO, it wouldn't have been told about anything that might have been similar, in all likelihood because of data protection.

It's unfortunate that it took another call from Mr H to explain the debt might be recorded under a different business. But as already explained above, I don't think that's information that Lowell could've come by on its own.

Mr H has provided copies of letters he says he sent in November 2016. Whilst I don't doubt he sent these, I've seen nothing to show they were received by Lowell. Indeed, I note the letters did have a different address for Mrs H. I think if Lowell had received these it would've used the correct address far sooner, and not employed tracing agents in June 2017 to find a current address. It was only as a result of the trace that Lowell was able to write to Mrs H about the debt in July 2017.

As I'm not persuaded that Lowell was aware the debt it had was part of the DRO I don't think it was wrong to write to Mrs H about it. And having reviewed the letter, and realising Mr H doesn't agree, I don't find it aggressive. Although it wanted to discuss the outstanding account, it did say it wouldn't ask for more than could be afforded and that it would like to help Mrs H come to an affordable repayment arrangement. I think, overall, the letter was written with coming to an arrangement in mind.

When Mr H contacted them to dispute its ability to collect the debt, I think Lowell did the right thing by only communicating with Mr H when asked, and by placing the collection activity on hold whilst it looked into matters. I consider those positive steps to take. But I feel I must point out that Lowell has never said it closed the account due to Mrs H's health and I'm unsure why the investigator said that. Nevertheless, as the debt is part of the DRO then its right the account is closed and that it will be marked as partially satisfied when the DRO expires (which I think has now come to pass).

Overall, having considered this carefully I don't find that Lowell has done anything wrong.

my final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 15 December 2017.

Claire Hopkins
ombudsman