

complaint

Mr B on behalf of Miss N complains that Asset Collections and Investigations Limited continue to chase her for an outstanding loan despite their claim having been struck out by the courts.

background

In 2016 Asset Collections and investigations Limited (ACI) acquired a loan Miss N had originally taken out with another lender. In 2017 ACI began legal proceedings for the outstanding balance of £514.26. In December 2017 however the claim was struck out by the courts as ACI had failed to comply with the court directions.

Miss N complains that, despite this, ACI continues to chase for the debt. She says it changed the loan reference and amount and then tried to start proceedings again. She feels this is unfair. She'd now like the loan written off and any adverse information recorded against her to be removed. She's also unhappy that ACI has been in contact with the original loan provider and feels this is inappropriate.

ACI said after acquiring the loan it had made numerous effort to contact Miss N. It had sent 32 emails, texts and letters to her, without response, before starting legal proceedings. It hadn't known Miss N was in financial difficulty or that she'd challenged the original loan. If it had it wouldn't have gone down that route and once it had been told, it had put her account on hold and hadn't taken any further action to seek payment. It didn't agree it had done anything wrong.

Our investigator didn't uphold the complaint. She said although the first court action had been struck out, this didn't write off the debt so she couldn't say ACI was wrong to pursue it. And she'd seen that before it began the first court proceedings it had made numerous attempts to contact Miss N so again she didn't feel it had acted unreasonably. ACI had purchased the debt in good faith but since then the original loan provider had taken back the debt and ACI were no longer pursuing it. However in the circumstances she felt it was reasonable for the two businesses to be in contact with each other about the loan. Overall she felt ACI had acted fairly so she wouldn't be asking it to do anything more.

Mr B on behalf of Miss N disagreed and said ACI had tried court action but lost so it shouldn't be able to start the action again without the permission of the court. He didn't feel this was fair or reasonable. And he felt ACI wasn't complying with the legislation on information security. He asked for the complaint to be referred to an ombudsman.

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 won't be asking ACI to do anything more as I'll now explain.

ACI bought the loan from the original loan provider and at that point it was entitled to seek payment just as if it had issued the original loan. I've seen it made numerous attempts to get in touch with Miss N before it began court action but got no response. For that reason I don't think ACI was unreasonable in taking legal action when it did.

But the claim was struck out and Miss N says it's unfair for ACI to continue to chase the debt in those circumstances. She says its trying to suggest there's second claim when they're in reality both the same.

I can understand why she may feel that but the fact the claim was struck out doesn't write off the debt – it simply means that particular application has failed. ACI has explained why the amount and the reference number of the account changed and I don't find anything suspicious in that. But at the end of the day, it's clear any future claim would essentially be the same as the first, even if the amount and the account number have changed, and in those circumstances it's for the court to decide if ACI can bring a new claim on that basis.

However since then the situation's changed. The original loan company has now taken back the debt and ACI's no longer pursuing it. There remains however a court fee of £60 and interest of £14.20 outstanding on Miss N's account. As I haven't found ACI was wrong to take legal action, I can't reasonably ask it to write off these sums. However as Miss N has now made clear that she has financial difficulties, I would expect ACI to treat her sympathetically and positively and if it continues to seek repayment, to do so on terms that are appropriate to Miss N's situation.

I realise this isn't the decision Miss N was hoping for but for the reasons given, I won't be asking ACI to do anything more with regard to Miss N's complaint.

my final decision

My final decision is that I do not uphold Miss N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 18 November 2018.

Cerys Jones
ombudsman