

complaint

Miss D complains ARC (Europe) Ltd has acted inappropriately when collecting a debt on behalf of a third party lender.

Miss D is represented in this complaint by Mr A.

background

Miss D had a current account with a third party lender ("N"). She was overdrawn and struggling to pay the outstanding balance, so in November 2016 the account was closed. In March 2017, N asked ARC to recover the outstanding debt of £230 on its behalf.

Mr A raised several concerns over ARC's behaviour when managing the account. In summary these were:

- ARC harassed and victimised Miss D. It contacted her outside of her communication preferences and failed to take account of the fact she's a vulnerable adult.
- ARC breached data protection by sending another consumer's details to Miss D.
- It failed to provide a breakdown of the outstanding debt and a copy of the notice of assignment.
- ARC refused to deal with Mr A, as Miss D's appointed representative.

ARC doesn't believe it's acted inappropriately. It says when it received concerns about the amount owed, it passed the complaint to N to investigate and respond. It kept the account on hold until the complaint was resolved. N was satisfied the correct balance was £230, so ARC continued to request repayment from Miss D.

In its final response letter, ARC provided Miss D with the account statements to show the breakdown of the debt. It says, prior to receiving the complaint, it hadn't received any request for this information from Miss D or Mr A.

ARC says it's no longer prepared to deal with Mr A. It says this is because of his behaviour and it has concerns he's not acting in Miss D's best interests. It gave Miss D information about free debt charities and organisations that could assist her if she didn't wish to deal with ARC directly.

Our investigator didn't recommend this complaint be upheld. She said she didn't believe ARC had acted unreasonably and were entitled to seek repayment of £230 from Miss D.

Mr A didn't agree. In summary he said:

- N added charges to the debt after the account was closed. The statements show the outstanding balance should be £103, not £230.
- ARC are unlawfully demanding payment for a debt which is disputed

The complaint has been passed to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

harassment

ARC's account notes show it first contacted Miss D about this debt in March 2017. As soon as Mr A disputed the amount owed, ARC referred the complaint to N to be dealt with.

The account was on hold until July 2017. And during this time ARC didn't contact Miss D or Mr A, other than to send a letter confirming N hadn't upheld Miss D's complaint. ARC has since sent further letters asking Miss D to make contact and repay the outstanding balance. But as Miss D hasn't contacted ARC, I don't think it did anything wrong by sending further letters.

From the account notes, I can see that ARC has only attempted to make one phone call. The rest of the telephone contact has been because Mr A has called in. So I've not seen anything to make me think ARC's conduct could amount to harassment. This is because its correspondence hasn't been excessive or unreasonable.

data protection breach

In September 2017, ARC sent Miss D a letter intended for another customer. It asked her to return or destroy the letter. Mr A raised his concerns with the Information Commissioners' Office (ICO) about what he thought was a data protection breach.

It's not our role to say whether ARC has breached data protection laws and Mr A has already raised his concerns with the most appropriate organisation. As it's not Miss D's data that was sent in error, she hasn't suffered any loss. For these reasons, I don't think it's appropriate for me to consider this point further.

breakdown of debt

Mr A complained to Arc in October 2017 because it hadn't sent him a breakdown of the debt. He says he asked for this in March 2017. Whilst I believe he did, it wouldn't be for ARC to explain or justify the debt. It doesn't own the debt and is appointed solely to recover the money on N's behalf. So ARC did the right thing in March 2017 by directing Miss D's initial complaint to N.

But following Mr A's contact in October 2017, ARC did then send Miss D copies of her bank statements (from N) which showed the breakdown of the debt. So I'm satisfied it did this promptly when asked to directly by Mr A.

Mr A says the statements show the debt should be £103. But I disagree. The October 2016 statement shows the outstanding balance as £215. Unfortunately N is unable to locate the final closing statement issued in November 2016. So N has now agreed to lower the outstanding debt by £15 and ARC has confirmed it's updated that information on its systems. I think that's fair.

Whilst Mr A might be disputing the debt on Miss D's behalf, N and ARC have provided them with evidence to show why it believes the amount is correct. So I don't think ARC has done anything wrong by continuing to ask Miss D for repayment of the outstanding amount. If Miss D continues to dispute the amount owed, she should raise this with N directly as it is the owner of the debt.

Mr A also says he asked for a copy of the notice of assignment. But because N hasn't sold the debt to ARC, that notice didn't need to be sent. But N did send a letter to Miss D to explain it had asked ARC to collect the debt on its behalf. So Miss D would've been aware ARC would contact her.

refusal to deal with representative

ARC has told us due to Mr A's conduct, it's decided to remove his authority to act as a representative on the account. It says it has concerns Mr A is not acting in Miss D's best interests. I don't think ARC has acted unfairly or unreasonably when making this decision. I say this because Mr A has placed a block on incoming emails from ARC, he's also returning all post addressed to Miss D and refusing telephone contact. So ARC has no reasonable way to contact Miss D to discuss the account.

ARC also says Mr A has impersonated Miss D in phone calls (which Mr A has accepted he did) and given false names whilst claiming to be Miss D's advisor. Lastly, it says Mr A has been abusive and threatening to its staff and has been unwilling to co-operate in conversations.

Mr A says ARC has tried to contact Miss D outside of her communication preferences. But I don't think its communication attempts have been unreasonable. Particularly because of the barriers that Mr A has put in place. I would expect ARC to take account of Miss D's preferences and I can see it's removed her telephone numbers from its database and is only sending letters. I don't think that's unreasonable in the circumstances.

ARC has also sent Miss D details of free charities and debt advisors who she could contact for further help. So I think it has taken account of her needs.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 26 March 2018.

Tero Hiltunen
ombudsman