

complaint

Mr C is unhappy that bailiffs still visited his home after he'd contacted BW Legal Services Limited ("BW") to arrange a settlement and prevent bailiff action.

background

Mr C had some debts, and in October 2014 BW was instructed to recover one of these debts. It seems BW tried to contact Mr C about the debt but didn't receive a response, so in December 2014 a County Court Judgement was granted against Mr C.

BW appears to have carried on trying to contact Mr C to let him know that further debt recovery action could be taken if he didn't get in touch. He didn't, so in September 2017 BW applied to court for a Warrant of Control, which authorises County Court bailiffs to take further recovery action. A few days later Mr C called BW, made a payment and agreed a repayment arrangement. That same day, BW sent an electronic request to the court asking it to suspend the bailiff action. As it didn't hear anything back, BW wrote to the court about a month later again asking it to suspend the bailiff action.

Despite this, bailiffs visited Mr C's home in November 2017 while his family were at home alone. This was upsetting for them and for Mr C. Mr C was also upset because he'd thought the repayment arrangement he made meant bailiffs wouldn't visit. So he complained to BW, but it didn't uphold his complaint. It said it had acted promptly by asking the court to suspend the bailiff action when Mr C called, and that it had sent a reminder to the court about a month later.

Mr C was still unhappy so he contacted our service. The investigator who looked into things didn't uphold Mr C's complaint. She explained the bailiffs had acted on behalf of the court, not BW. And she thought BW had done what it could to stop them visiting.

Mr C disagreed so his 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. Having done so, I'm not upholding it.

Mr C doesn't dispute he owes this debt. I've listened to the call he made to BW in early October 2017 - he explains there's been confusion and that something's gone amiss regarding this debt. Mr C tells BW that he did receive its letters but didn't take any action because the letters had the name of BW's client on them. Mr C has told our service he'd thought this debt was one of the debts he'd been sorting out directly with BW's client. So it seems not repaying this debt was a genuine oversight on Mr C's part, and from the evidence I've heard it's clear he's trying to repay his debts.

It's unfortunate Mr C only realised this debt was still outstanding at a fairly late stage, after County Court bailiffs had been appointed. But based on the letters I've seen and on what Mr C himself told BW, I'm satisfied BW was trying to contact Mr C about the debt for quite a long time.

It's important to note that County Court bailiffs are employees of the court, not BW. And that because the bailiffs are not regulated by the Financial Conduct Authority, I can't make any findings about them.

However, I've looked at what BW did. From the system notes and letters BW has provided, I can see it asked the court to suspend bailiff action straightaway – it sent the first request during its call with Mr C and then sent a reminder letter to the court about a month later. Despite this, bailiffs still visited Mr C's home though Mr C was fortunately able to call them and stop further action. I do appreciate this must have been upsetting for Mr C and his family, especially since he'd made a repayment arrangement to prevent bailiffs visiting.

As I've said, County Court bailiffs are employees of the court, not BW. BW can ask the court to suspend bailiff action, and in this case it did so twice. But BW can't control what the court or its bailiffs do. While I know Mr C and his family have been upset by this, I'm satisfied BW took reasonable steps to stop bailiffs visiting.

Mr C thinks bailiffs wouldn't have visited his home if BW had reminded the court earlier. But BW wasn't obliged to send a reminder to the court, though it did anyway. And I think a month is a reasonable amount of time for BW to have waited before sending a reminder, since it needed to give the court time to process things and respond. So I can't say BW did anything wrong by reminding the court after a month.

my final decision

For the reasons I've explained, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 1 September 2019.

Ailsa Wiltshire
ombudsman