

complaint

Mr R complains that BW Legal Services Limited phoned him at work about his son's debt, that the caller misrepresented that she was a solicitor and that it disclosed his son's confidential account information to him.

background

BW Legal Services is a regulated debt collector and is also a regulated firm of solicitors. It phoned Mr R at work in June 2017 about a debt (which wasn't his but was his son's). He complained to BW Legal Services which sent him a final response letter. That letter contained his son's account number, the amount of his debt and an offer to enter into an affordable repayment plan. Mr R wasn't satisfied with its response so complained to this service.

The adjudicator didn't recommend that this complaint should be upheld. She listened to the recording of BW Legal Services' call to Mr R and was satisfied that the caller said that she was calling from BW Legal Services – which wasn't incorrect. Mr R wasn't able to answer the security questions correctly and the caller realised that the debt wasn't Mr R's and ended the call. And the caller said that Mr R's work number would be removed from its system – which the adjudicator felt was satisfactory. But Mr R complained to BW Legal Services and it sent him a final response letter which included some of his son's account information. The adjudicator said that his son's personal information shouldn't have been disclosed to Mr R – but Mr R then used that information to contact BW Legal Services pretending to be his son. She felt that that lessened the impact of the incorrect disclosures – and she said that it was Mr R's son who would have cause to complain about a data protection breach. She confirmed that BW Legal Services recognises that the debt isn't Mr R's and it isn't pursuing him for payment.

Mr R has asked for his complaint to be considered by an ombudsman. He says, in summary, that:

- his son didn't disclose his work phone number;
- one of his previous lenders will have given his number to BW Legal Services – and shouldn't have done so;
- this has brought back a lot of very bad memories of his problems arising from his debts;
- he would like to complain about the company that provided his number to BW Legal Services; and
- his son wants to make a complaint about BW Legal Services for breaching his data protection rights.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I sympathise with Mr R for the upset that he's experienced as a result of being contacted by BW Legal Services and the bad memories of which he's been reminded. But I'm not persuaded that it was inappropriate in these circumstances for it to have contacted him.

BW Legal Services was instructed by its client in December 2016 to recover an outstanding debt of £193.50 owed to it by (what is now known to be) Mr R's son and which had been assigned to it by the original creditor. BW Legal Services says that the original creditor had provided the phone number that it used to contact Mr R. But the number that it says was provided by the original creditor is different to Mr R's work number – and Mr R says that his son wouldn't have provided that number. But BW Legal Services has recently said again that all contact numbers were provided by the original creditor. BW Legal Services had a legitimate interest in trying to contact Mr R's son. And when it was unable to contact him using the details that he'd provided, it could've used various tracing techniques to try to locate him and which may have discovered Mr R's work number as they share the same named and address. I consider that that would've been fair and reasonable.

BW Legal Services' representative phoned Mr R at work and the caller identified herself as being from BW Legal Services. She didn't say that she was a solicitor and didn't misrepresent herself. She asked Mr R some security questions but he wasn't able to answer them correctly because his date of birth was different to the information that it had so she ended the call. She didn't give Mr R any confidential information and I consider that the call was conducted in an appropriate and professional way. So I don't consider that BW Legal Services acted incorrectly in connection with the call to Mr R.

But Mr R then complained to BW Legal Services about being phoned at work. It sent him a final response letter which contained his son's account number, the amount of his debt and an offer to enter into an affordable repayment plan. It was wrong for it to have sent that information to Mr R and that may be a breach of Mr R's son's data protection rights. But it's Mr R's son's data – and not Mr R's – that has been disclosed. So I'm not persuaded that Mr R has suffered a loss and I don't consider that it would be fair or reasonable for me to require BW Legal Services to pay any compensation to Mr R. If his son wants to complain about a potential data protection breach he should contact the information commissioner. Mr R then used the information that had wrongly been disclosed to him to contact BW Legal Services pretending to be his son and gained access to the information that it held about his son. It was wrong for him to have done so. Mr R says that he wants to make a complaint about the original creditor. But he would first need to complain to the original creditor and then – if he's not satisfied with its response – he may be able to complain to this service.

BW Legal Services has confirmed that the debt isn't Mr R's and that it isn't pursuing Mr R for payment. It's also said that it's removed Mr R's work number from its records. So I'm not persuaded that it would be fair or reasonable for me to require it to take any further action in response to Mr R's complaint.

my final decision

For these reasons, my decision is that I don't uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 2 January 2018.

Jarrold Hastings
ombudsman