

complaint

Mrs T complains Arrow Global Limited (Arrow) secured a County Court judgment (CCJ) against her for a debt she understood to have been settled and was over 11 years old. She says the debt is unenforceable and asks that the CCJ to be removed.

background

Mrs T held a credit card with an outstanding balance. In August 2012, the original lender wrote to Mrs T explaining it had appointed a debt collection agency to recover the debt.

In March 2017, the original lender wrote to Mrs T again. It said it had assigned all of its rights, title and interest in the outstanding debt to Arrow, from February 2017. It said the outstanding balance was £2,757.94 and any future payments should be made directly to Arrows appointed agents. Arrow appointed the same agents as Lloyds had previously used in an attempt to collect the outstanding balance.

Mrs T says she understood this letter to mean the debt collection agency would no longer be chasing her for the debt as it had been sold. She was very concerned when the same collection agency started to contact her. She understood the debt to have been settled and points out that a successful PPI claim was paid by Lloyds. She feels if there was an outstanding debt, Lloyds would or should have deducted it from her PPI claim. Mrs T feels Arrow have pursued her and obtained a CCJ unfairly and without any evidence of the original agreement.

In its final response dated 4 February 2019, Arrow didn't uphold Mrs T's complaint. It said it issued court proceedings on 26 March 2018. After it had done so, Mrs T spoke with a representative to say she had settled the debt with the collection agents prior to processing being issued. The Arrow representative explained that as court proceeding had already been instigated it couldn't put a hold on the account, but suggested Mrs T file and Acknowledgement of Service with the court in order to give her further time to provide evidence of payment and file a defence to the County Court Summons.

Arrow confirmed it received the Acknowledgment of Service on 27 March 2018. This meant Mrs T had until 10 April 2018 to file a defence and provide evidence the debt had been settled. It says a defence wasn't received and on 6 November, it wrote to Mrs T requesting the evidence and explaining if it didn't receive it within 7 days it would apply to the court for Judgement to be entered. It did not receive a response and so on 22 November 2018; it made an application to lift the stay on proceedings and applied for Judgement, which was granted for £2885.33 on 4 December 2018.

Mrs T complained to this service and an investigator looked into things for Mrs T. He didn't find any evidence to suggest the debt had been settled. He understood Mrs T's confusion especially considering both the original lender and Arrow both used the same collection agents. But this didn't negate Mrs T's responsibility to pay the outstanding balance. He found Arrow had acted fairly and reasonably and so didn't ask it do anything further.

Mrs T responded and raised two further complaint points. She said she wasn't aware of the matter was going to court and wasn't told about a hearing date. She feels she should've been invited to attend court and put forward a defence.

The investigator looked into Mrs T's additional concerns. He looked at the court application papers and found Arrow had selected the proceedings to be authorised without a hearing.

As this was an option offered by the court, he couldn't say Arrow had done anything wrong and so he maintained his earlier view that Arrow had acted fairly and reasonably.

Mrs T disagreed. She feels very strongly the court action was unfair and the debt is unenforceable. She asked for an ombudsman review.

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've looked at all the information provided by both parties afresh. Having done so, I've reached the same view as the investigator. I know this will come as a disappointment to Mrs T. I'll explain why.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

I think it's important to say at the outset my decision only concerns the actions taken by Arrow and I've looked to see if they acted fairly and reasonably in seeking to recover the outstanding balance. I can see from the information provided the original lender assigned a credit card balance to Arrow in February 2017.

I can understand why Mrs T found the whole matter confusing after the original lender and Arrow used the same collection agents in an attempt to recover the outstanding balance. That said, I've looked carefully at the letter from original lender. It explains very clearly that it has sold the debt and has no further interest in it, it says that it has assigned (sold) it to Arrow and gives the name and contact details of the collection agents. It also clearly says all future payments and arrangements should be made through them.

As I understand it, Mrs T has acknowledged that she hasn't settled the debt directly with the collection agents and so whilst she may have been confused about who was collecting the debt for whom, it doesn't negate her responsibility for the outstanding balance, indeed, Mrs T doesn't appear to dispute the original credit card balance.

I'm satisfied that the original lender notified Mrs T of the assignment to Arrow. Arrow are within its rights to use any collection agents they choose to recover the outstanding balance so I've then looked to see if the actions it took were fair and reasonable. Although I'm only looking at Arrows actions I've looked at the system notes of both it and its collection agents. I can see that Mrs T had numerous telephone communications throughout the time the collection agents were recovering the balance. This included a number of different repayment arrangements. So, I'm persuaded Mrs T was aware of the outstanding balance and agreed to a number of repayment arrangements. When no further payments were received, Arrow Global instructed its solicitors to start court proceedings.

I've carefully considered the court documents and I've noted Mrs T's concerns about not being informed the matter was going to court. When Arrow issued court proceedings on 26 March 2018, it says Mrs T spoke to them and explained she had settled the matter with the collection agents prior to the court proceedings being issued. It says it advised Mrs T to file an acknowledgment of service to give her additional time to send it evidence of the settlement. Mrs T filed the acknowledgment of service on 27 March 2018 and had until 10 April to file a defence to evidence there was no sums owed.

Mrs T didn't file a defence and Arrows solicitors didn't receive any further correspondence. I can see Arrow issued a letter on 6 November 2018, nearly seven months later, requesting the evidence Mrs T referred to be sent within 7 days or it would apply to lift the stay on proceedings and ask for Judgment to be entered. On 22 November, having received no further information, it re-commenced proceedings and the court entered judgement on 4 December 2018.

I'm satisfied Arrow offered Mrs T the opportunity to provide evidence of her claim that the debt had been settled and gave her sufficient time to do so. When no further information was forthcoming, it gave notice of its intention to recommence proceedings. I'm satisfied Arrow I weren't acting unreasonably or unfairly in doing so. The option to carry out proceedings without a hearing is offered by the court, so I'm not able to say Arrow have done anything wrong in selecting that option. Mrs T could've have filed a defence and requested a hearing with the court at the time but that would be at the courts discretion and not something I'm able to consider.

It's important to note that, although the Financial Ombudsman Service is an alternative to the court, we are not part of the judicial system. This means we can't overturn, override or change anything a court has ordered. If Mrs T wishes to have set aside the judgement, she will need to apply directly to the court.

I know Mrs T will be disappointed but I'm satisfied Arrow have acted fairly and reasonably here so I'm not going to ask it to do anything further.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 1 July 2020.

Wendy Steele
ombudsman