

complaint

Mr O complains that Link Financial Outsourcing Limited (Link) applied for a charging order in a court that wasn't local to him.

background

Mr O had a credit card debt, which he wasn't able to repay. The debt was sold to Link Financial Outsourcing, which then assigned it to a third party, but Link continued to administer and manage the debt as a collection agent. In 2013 the third party debt owner obtained a judgement for the debt against Mr O and then a charging order against his home. Mr O said that Link used a court that wasn't local to him, so he wasn't able to afford the cost of attending the court hearing. He is also concerned that:

- The court orders were made to the debt owner and not Link, but it used, as evidence, an offer to repay that he made to Link.
- Despite asking, Link hadn't given him a standing order form to complete so it was making it difficult for him to make regular repayments.
- It hadn't provided him with an explanation about the charging order.

The adjudicator thought this complaint should be upheld in part. She said that Link was appointed by the debt owner to manage the debt on its behalf and it was authorised to do so. There was both a county court judgement and charging order against Mr O and this service couldn't challenge the court's ruling. If Mr O hadn't adhered to the payment arrangements agreed by the court then Link (on behalf of the debt owner) could return to court to enforce the order. But Link hadn't properly explained what the charging order was when Mr O asked it to, so she thought its offer to pay £75 for this was fair.

Mr O responded to say, in summary, that he understood that the court hearing should have been held in a court local to him so it was within easy travelling distance. He had also made payments over two years but still Link hadn't sent him a standing order form. And Link shouldn't be allowed to act for the debt owner, they're two separate companies.

my findings

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

the debt owner and Link

Mr O doesn't think that Link should ask him to repay the debt or have obtained the court orders because the debt is owned by another company.

I can see that the original lender sent a letter to Mr O to tell him that it had sold his debt in March 2012. Link also sent a notice of assignment to Mr O in March 2012, to say it had sold the debt to new owners, but it also informed him that Link would be managing the account. So I consider Link is acting as a debt collection agency on behalf of the debt owner, which it is entitled to do. I also find that Link is authorised and regulated by the Financial Conduct Authority (FCA) to carry out that activity.

court hearings

Mr O doesn't dispute the debt and he seems to accept that the debt owner obtained a county court judgement against him in 2013 at the Northampton County Court. He is concerned that when it applied for an interim and final charging order this wasn't done in a court local to him. I don't consider that Link, on behalf of the owner of the debt, needed to apply to a court local to Mr O. If Mr O wanted to object then he could or should have applied to have the hearing transferred to a court near to him.

charging order

Mr O wrote to Link in 2014 offering a reduced payment plan, and he also asked for an explanation of the charging order. Link didn't provide this when it replied. It has apologised and offered to pay £75 for its mistake, which I consider is fair.

outstanding debt

Mr O says that he made repayments to Link over two years but he didn't receive a standing order form. But I find that Link did send Mr O a payment form so that he could set up a standing order after it obtained judgement in 2013. It also gave him details of alternative ways in which he could make regular payments. I find that Mr O completed a reduced payment plan, offering £2 per month, and said he would pay by credit or debit card. But when he reduced this to £1 he completed Link's form, asking it to send him a standing order form. He says it hasn't done so.

Having carefully reviewed Link's records I note that when it received Mr O's offer of £1 per month, it did tell him that it wasn't able to accept this until he had completed, and it had assessed, an income and expenditure form. Since then Link has asked Mr O to contact it by phone on a number of occasions but he doesn't seem to have done so. Link is entitled to make enquiries and carry out its own investigations to check on Mr O's current circumstances and to decide for itself whether or not to accept the offer Mr O made.

I'm satisfied that the debt remains outstanding, so it is only reasonable for Link to seek repayment. In order to avoid further legal action and costs I would urge Mr O to contact it to try to agree a regular repayment plan. If he still wants to make monthly repayments by standing order, then Link should send him the appropriate information to allow Mr O's bank to set this up. I would also remind Link that it has an ongoing duty to treat someone in financial difficulty positively and sympathetically.

my final decision

My final decision is that I uphold this complaint in part. I require Link Financial Sourcing Limited to pay Mr O £75.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 21 December 2016.

Karen Wharton
ombudsman