

## **complaint**

Mrs C complains that she's being wrongly pursued for debts by Hoist Finance UK Limited (Hoist).

## **background**

Mrs C had been making monthly payments to Hoist in respect of three separate debts via a Debt Management Plan for a number of years. But she's recently been advised the debts aren't enforceable due to, amongst other things, the current statuses of the original creditors and she asked for the debts to be written off.

Hoist continued to pursue Mrs C for the debts. It said all three of the debts had been transferred to it from her previous creditors and it was entitled to pursue her for the outstanding balances.

Unhappy with this, Mrs C referred her complaint to us. Our investigator didn't recommend her complaint should be upheld. He felt Hoist had provided enough information to show the debts had been transferred to it and the issue whether or not the debts are enforceable is a matter for the courts.

Mrs C disagreed with the investigator's findings and responded in detail. In summary she has repeated her concerns that the debts aren't valid and enforceable.

## **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 read everything Mrs C has sent us, but I won't be responding to each and every point she's made. No discourtesy is intended – it simply reflects the informal nature of our service and my role within it.

Having considered everything, I've decided not to uphold Mrs C's complaint. I'll explain why.

The crux of Mrs C's complaint is that she doesn't think the debts are enforceable. I can't decide if Mrs C's debts are enforceable. Only a court can do this. So if Mrs C wants to challenge this, she'll need to do so in court.

Mrs C has also raised concerns about the conduct of Hoist as she doesn't feel it has acted in accordance with various legislation and regulations. It isn't the role of this service to monitor (or regulate) businesses to make sure they follow the rules. This is the responsibility of the regulator the Financial Conduct Authority (FCA). So I won't be addressing Mrs C's concerns about this.

But I have considered whether I think it is fair and reasonable for Hoist to be pursuing Mrs C for the outstanding three debts.

Mrs C doesn't think Hoist has provided sufficient evidence to show the debts were transferred to it. She's also questioned the authenticity of the documentation it has provided.

I've carefully reviewed the documents Hoist has provided.

In respect of Hoist accounts ending in 10 and 50, Hoist has provided us with copies of its Notices of Assignment letters dated 16 January 2014 and 1 February 2014 respectively. These confirm the previous creditor had assigned all of the rights, obligation and benefits associated with the debts to Hoist.

Hoist has also provided us with copies of the original credit agreements and loan statements showing Mrs C made payments towards these accounts between August 2004 to March 2007 and July 2005 to March 2007 respectively.

I have no reason to doubt the authenticity of these documents and I think this is enough to show Hoist is entitled to pursue Mrs C for these debts.

Hoist has been unable to provide the same documents in respect of Hoist account ending in 20. But it has provided a loan statement confirming the account is in Mrs C's name, the amount borrowed, the commencement date, the term of loan and the outstanding balance. It also shows regular payments being made towards the account between November 2004 and November 2007. Given that Hoist has access to specific account details, I think it's more likely than not that the debt was transferred to it.

So, taking everything into account, I think Hoist is entitled to pursue Mrs C for all three debts. And as Mrs C has borrowed the money, I think it is fair and reasonable that she repays it.

Mrs C is also unhappy with Hoist's delay in accepting her Subject Access Request. Hoist has apologised for this in its letter dated 25 August 2017 and confirmed the request has been actioned. I don't think it needs to do anything more. If Mrs C remains concerned that it has breached legal requirements, she may wish to report this to the Information Commissioner's Office who monitors information rights practices.

Mrs C has also said the length of time it's taken her to make her complaint should be taken into account. I appreciate it can be inconvenient making a complaint, but this isn't something I think Hoist should make an award for.

### **my final decision**

For the reasons I have given, it's my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 18 October 2017.

Michelle Griffiths  
**ombudsman**