

## **complaint**

Mr B complains that Arrow Global Limited wrongly obtained a County Court Judgement ("CCJ") against him for a debt by using an old address for service which didn't comply with the Civil Procedure Rules for service ("CPR 6.9")

## **background**

In 2004 Mr B took out a credit card with a bank but unfortunately in 2006 his financial circumstances changed and he struggled to make payments. Mr B entered into a payment plan to pay off the debt at a set monthly amount. Payments were made up until 2011.

The debt was sold by the bank to Arrow Global in November 2013 and an address ("Address One") was provided by the bank for Mr B.

Arrow Global outsources the debt collection for its accounts and did the same with Mr B's debt. Between 2013 and 2017 it instructed a total five different debt collecting companies at different times to make contact with and collect the outstanding amount from Mr B. Each of these five companies was unable to make contact with Mr B.

In 2014 a phone call was received from someone living at Address One who reported that Mr B didn't live there. Despite a manual trace no new address could be found at that time and the account was handed back to Arrow Global.

In 2015 another debt collecting company established that Mr B had other credit accounts still linked to Address One but despite attempts to make contact with Mr B received no response from him.

The third debt collecting company was unable to contact Mr B but the fourth found another address linked to Mr B ("Address Two") but again no contact was made with Mr B.

The fifth collecting company found another address linked to Mr B ("Address Three"). This company attempted contact at this address but again received no response from Mr B. This address was used to serve the County Court papers.

In October 2017 Arrow Global obtained a CCJ against Mr B for the outstanding debt. Mr B says he wasn't aware of this action until 2019 as the address used to obtain the judgement was one he hadn't used for several years. He says Arrow Global would have been aware of that and could have reasonably traced him to his current address.

Mr B complained to Arrow Global that it had intentionally used an address that it knew was old. He said that Rule 6.9 of the Civil Procedure Rules sets out how claim forms are to be served where the defendant (in this case Mr B) doesn't give an address. This rule says the papers must be served on the "*usual or last known residence*". So this meant the claim form should have been served on Address One.

Mr B said looking at a previous decision made by this service his complaint should be upheld and Arrow Global should apply for the judgement to be set aside and all the legal costs applied to the account should be removed. He also said he should be compensated for the unnecessary distress and inconvenience caused to him.

Arrow Global didn't uphold his complaint. It confirmed the bank had passed it Address One when it had sold the debt but that the other addresses had been established by the

companies seeking to recover the debt on its behalf. It said the CCJ had been correctly obtained.

Mr B disagreed with the view of Arrow Global and complained to this service. Our investigator didn't recommend his complaint should be upheld.

Our investigator said that Mr B, although concerned about the legal status of the debt, had asked this service to look at Arrow Global's actions in obtaining the CCJ and so that was what she had done. Our investigator said this service's remit was limited in regards to the judgement itself as it couldn't overrule a court's decision.

Our investigator said she appreciated Mr B's view was that Arrow Global should have used Address One for service as this would have been in line with CPR 6.9 on service. Mr B had also said that as this address belonged to a relative he would have had an opportunity to have become aware of the proceedings if the documents had been sent there as they could have been passed on to him.

Our investigator said looking at the notes provided by Arrow Global that in both 2014 and 2017 phone calls had been received from someone living at Address One stating Mr B didn't live there. She said there was no evidence that Arrow Global had known this address belonged to a relative of Mr B. She said she thought it was reasonable that, although this address would have been in accordance with CPR 6.9, that Arrow Global hadn't used it to serve the claim form.

Our investigator said since around 2014 five different companies had sought to collect the debt from Mr B and none had been able to make contact with him. Other addresses had been found that were linked to him and although the claim could have been served on Address Two she thought it was unlikely that, if that address had been used, Mr B would have been aware of the proceedings and subsequent CCJ.

Our investigator said she thought there had been sufficient attempts to make contact with Mr B over the years. She said it was reasonable to say that Mr B would have been aware that the bank had sold the debt to a third party and that third party would have had an interest in having the debt paid.

Our investigator said that some responsibility fell on Mr B to keep his address details up to date to receive documents.

Our investigator said she had seen the previous decision issued by an ombudsman concerning a CCJ and an old address being used for service but each complaint was considered on its own merits. She said she didn't think Arrow Global had acted unfairly.

Mr B disagreed with our investigator's view. He said that his complaint was that Arrow Global had not complied with CPR 6.9 and not whether Arrow Global had acted fairly or not. He said that Address One was his last known address as passed to Arrow Global by the bank and this was the address that should have been used for service.

Mr B said he believed the debt was statute barred and that Arrow Global had contrived to get a CCJ by using an old address that he no longer had any contact with. Mr B said it would have been reasonable for Arrow Global to have made other enquiries and if it had his current address would have been found.

As the parties couldn't agree the complaint has been passed to me.

## **my findings**

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

Mr B has said that although he believes the debt was statute barred he is only asking me to look at the CPR 6.9 point. He says as the rule on service wasn't complied with then his complaint against Arrow Global should be upheld.

I accept that CPR 6.9 is important when looking at whether a court has jurisdiction to deal with a claim because the claim must have been validly served on the defendant. But I disagree that Mr B's last known address is as straight forward as saying only Address 1 could've been used by Arrow Global. I think there may be potential legal arguments that other addresses may have fitted this description but that isn't an issue for me to decide.

In my role as ombudsman, while I have to take into account what the law says, I'm not bound by it in reaching what I feel is a fair and reasonable decision in all the circumstances when looking at complaints. I am not a court of law but part of an alternative dispute resolution service. And here, although Mr B says it isn't relevant whether Arrow Global acted fairly or not, I think for me to fulfil my role I need to take account of the actions of both of the parties in respect of this outstanding account.

Mr B's has confirmed that he has had several different addresses over the years. He says it was in 2009 that he had lived at Address Three before later moving to Address Two. From 2013 onwards Mr B has provided other addresses where he said he has lived and in addition says he has on occasions used Address One for post.

While I appreciate Mr B says there was a connection to Address One as it was a relative's home I can't reasonably say that Arrow Global would have been aware of that fact. Looking at the evidence, what I can say is that Arrow Global knew that on two separate occasions, once in 2014 and again in 2017 that when Address One was used to make contact with Mr B someone at that address said he didn't live there and hadn't lived there for some years.

I've seen that the five different companies used by Arrow Global to collect the debt were unable to make contact with Mr B despite using a variety of addresses including Address One. As Mr B says he has had a continuing connection with Address One I think it's more likely than not that Mr B would have been aware that this debt was being pursued by Arrow Global.

However, I haven't seen any evidence that Mr B attempted to make contact with either the bank or Arrow Global in an attempt to resolve the outstanding debt or to provide an up to date address. I also think it's reasonable to say that Mr B would have been expecting a CCJ to be issued at some point for this debt.

I think over the years that Arrow Global has made reasonable efforts to locate Mr B. And I note this has not been successful in eliciting a response from him so I think it was reasonable to move to seeking a CCJ against him. I've seen that Arrow Global was supplied with three different addresses for Mr B, one of which it was positively told wasn't his (Address One). So I think in these circumstances that Arrow Global acted reasonably in using Address Three for the service of the claim.

I appreciate Mr B has pointed out a different outcome reached by an ombudsman on a case involving the use of an old address. However, as explained by our investigator each complaint is looked at on its own merits and I think there are clear differences in the facts of that other case with the facts of Mr B's complaint. I don't think my approach to his complaint has been inconsistent with the approach taken in that other complaint.

So for the reasons given above I'm not intending to uphold Mr B's complaint. I don't think Arrow Global has acted unfairly in the way it has handled Mr B's account.

**my final decision**

As set out above I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 May 2020.

Jocelyn Griffith  
**ombudsman**