

complaint

Mrs E wants Hillesden Securities Limited to discontinue collection activity on a debt she says is unenforceable. Mrs E also says Hillesden has harassed her.

Mrs E is represented in this complaint by Mr J. References to Mrs E should be taken to include submissions made by her representative.

background

I issued a provisional decision on this case on 27 September 2013. The background (which is taken from that decision) is:

Mrs E was contacted by Hillesden about a debt it had bought. Mrs E says this debt had been in dispute for several years and no payments had been made on it since the dispute started.

Mrs E wrote to Hillesden asking for a copy of the credit agreement. The documents did not arrive and Mrs E told Hillesden the debt was unenforceable and in dispute.

Hillesden told Mrs E it did not have a copy of the agreement so it was prevented from enforcing it. However, it said it still intended to continue collection activity on the account. Mrs E received a statement of account from Hillesden some months later. Mrs E complained to Hillesden that there was no signed agreement for the debt and the continued correspondence was harassment.

After initial consideration of this matter by one adjudicator a second adjudicator recommended that this complaint should not be upheld. The adjudicator decided that, because Mrs E had provided this service with a copy of a credit agreement relating to this debt in 2008, the underlying debt was enforceable and Hillesden had not acted inappropriately.

Mrs E did not agree. She said Hillesden had harassed her and pursued a debt which it knew was in legal dispute and unenforceable. She said the document found by the adjudicator was not a valid credit agreement.

I set out in my provisional decision why I did not propose to uphold this complaint. In summary I said:

- arguments as to the legal enforceability of the credit agreement are more appropriately dealt with by a court;
- Hillesden made reasonable initial enquiries to investigate Mrs E's dispute, and provided details of those enquiries to her;
- Hillesden did not mislead Mrs E about the enforceability of the account and were entitled to continue certain collection activities in accordance with Office of Fair Trading (OFT) guidance;
- the level or type of contact from Hillesden was not inappropriate and it had not harassed her or placed her under undue pressure to pay;
- Hillesden could have concluded its investigation in a timelier manner but Mrs E provided limited information as to the nature of the dispute over the account;
- Mrs E did not say the account did not belong to her or that she never spent on it;
- it was reasonable for Hillesden to continue collection activity on the account during its investigations.

I invited the parties to let me have their further submissions.

Hillesden said it had nothing further to add.

Mrs E submitted two letters dated 1 August 2011. One of the letters is about the account which this complaint is about. Mrs E says the letter shows Hillesden misled her about the enforceability of the debt, harassed her, and placed her under undue pressure.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. In particular I have considered the further submissions from Mrs E. After doing so I have decided not to uphold this complaint.

The letter from Hillesden dated 1 August 2011 says that if Mrs E does not pay the outstanding account balance she may be subject to a county court judgement or a charge on her property. I accept this letter indicates the debt could be enforceable against Mrs E.

I have looked at Hillesden's customer contact notes. It appears the first record of Mrs E potentially disputing the debt is on 4 August 2011. On this date a letter from her dated 28 July 2011 is logged. In this letter Mrs E asks Hillesden to stop processing her data because a signed copy of her agreement has not been produced. The only entry before this date is on 25 July 2011 which logs a letter from Mrs E dated 19 July 2011 in which she requests a copy of the credit agreement.

Mrs E's letter asking Hillesden to stop processing her data appears to be dated before 1 August 2011. However, I accept there will be some processing delays before letters are read and logged onto Hillesden's system. I believe Hillesden sent out its letter dated 1 August 2011 before it was aware of this letter.

Furthermore, Hillesden placed Mrs E's account on hold when they received a letter from her in response to its letter dated 1 August 2011. In her response Mrs E appears to specifically state the debt is disputed. I understand that Hillesden confirmed the debt was unenforceable shortly after Mrs E raised a dispute.

I am not persuaded Hillesden have misled, harassed or unduly pressured Mrs E by sending her the letter dated 1 August 2011. I am persuaded this letter was sent before Hillesden was aware of the dispute on the account, and was reasonable in the circumstances.

In light of my findings above and for the reasons given in my provisional decision I conclude that I see no reason to uphold this complaint.

my final decision

My final decision is that I do not uphold this complaint.

Mark Lancod
ombudsman