

complaint

Miss C complains that Hoist Finance UK Limited (Robinson Way) is seeking payment from her for debts which she believes are more than 20 years old.

background

Miss C received letters and visits from Robinson Way in relation to debts which she says are statute barred.

Robinson Way says the debts aren't statute barred because two county court judgments were entered against Miss C in March 2002. Miss C disputes the existence of the county court judgments because Robinson Way can't provide evidence of these and there are no records of them on the county court register.

Following the complaint to this service Robinson Way reviewed Miss C's account. It decided to write off the debts and close the account in view of the length of time since the county court judgments were obtained. Miss C says the situation caused her stress and anxiety. She wants compensation.

The investigator didn't uphold the complaint. She said that Robinson Way had contacted Miss C legitimately about a debt which it reasonably believed was owed.

Miss C didn't agree. She felt that it was unreasonable for Robinson Way to have pursued her when it didn't hold documentary evidence of the debt. She said that the screenshots of the county court judgment details were not sufficient evidence of the debt because anybody could have produced this information. Miss C also felt that Robinson Way had visited her at an unreasonable time, namely 19.21pm and had contacted her too frequently, namely 3 field visits within 7 days. Miss C further complains that Robinson Way failed to provide her with a history of the debt including details of where it purchased it from and failed to place a hold on recovery action following her complaint in August 2017.

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 appreciate Miss C's strength of feeling that this debt shouldn't have been pursued. Whilst it's not the role of this service to say whether a debt is statute barred or not, if a county court judgment has been obtained then it's unlikely that a debt would be statute barred because in the course of entering judgment the court will have considered limitation. Similarly it is not the role of this service to say whether a debt is enforceable or not. But generally where a county court judgment is more than 6 years old the creditor will need to apply to the court for permission to enforce the judgment.

It's important to note that enforcement of a county court judgment, which is a court process and includes actions such as the instruction of a bailiff, deduction of money from wages and charging orders, is different from the sending of correspondence by debt recovery companies. In this case, it's unlikely that Robinson Way would need the permission of the court in order to send letters to Miss C.

Miss C isn't happy about the lack of evidence of the county court judgment. Because the judgment is over 6 years old it will no longer appear on the county court register. So its existence can no longer be checked in that way. I've looked at the screen shot provided by Robinson Way which show details of two judgments registered in March 2002. I understand Miss C's concern that this information may not be reliable, but I think it's unlikely that Robinson Way has manufactured this information. On balance, I think that Robinson Way was provided with this information when it purchased the debt in 2014. Because of that, I don't think it's unreasonable that Robinson Way has relied on the information and has taken steps to recover what it reasonably believed was owed. So I'm unable to say that Robinson Way has done anything wrong in seeking payment from Miss C.

I've considered all of the points which Miss C has made about Robinsons Ways' business practice. I appreciate that being pursued for a debt can be an unpleasant and stressful experience but I don't think Robinson Way has done anything which could amount to harassment. Creditors are allowed to take reasonable steps to recover a debt, including sending demands for payment, telephoning to ask for payment and calling at a debtors home (provided that this is at a reasonable time of day). On the available evidence I can't say that Robinson Way has contacted Miss C several times a day, or that it contacted or visited her very early in the morning or very late at night.

I appreciate that Robinson Way initially failed to acknowledge Miss C's complaint in August 2017 and that attempts to recover the debt continued from a while. However, when it responded to Miss C's complaint, Robinson Way stopped any further field visits and removed Miss C's telephone number from its records so that no further calls could be made. On balance I think that the steps taken by Robinson Way to place a hold on recovery action once the complaint was logged were reasonable.

Taking all of the circumstances of the complaint into account, and whilst I appreciate that Miss C has suffered a degree of distress and inconvenience, I'm unable to say that Robinson Way has done anything wrong in pursuing the debt. And I think that the steps taken by Robinson Way in writing off the debt and closing the account reflect a fair resolution to the complaint.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 23 April 2018.

Emma Davy
ombudsman