

complaint

Mr H complains that Hoist Finance UK Limited has refused to provide him with a deed of assignment proving that it owns the debt it is trying to collect from him. He also complains about the poor service he has received from the business in trying to resolve matters.

background

In September 2017 Mr H received a letter from Hoist proposing a settlement figure of some £100 on a debt of around £400 it said he owed. Mr H replied saying he didn't accept any liability for the debt, which was in any event statute barred as more than six years had elapsed.

Hoist replied saying that as the debt had been made subject to a court order in September 2008, it could not then become statute barred. Mr H continued to argue that the debt was statute barred and asked for details of the original creditor and of how the debt had arisen. But he said in order to bring matters to a swift resolution he would accept Hoist's settlement proposal and asked for confirmation by return of post. Hoist didn't respond.

Hoist contacted Mr H again in early 2018 providing details of his original debt. It said its previous settlement offer had expired and it offered a new, but increased figure. Over the following months Hoist wrote a number of letters to Mr H and said it would send someone to his house to progress matters.

In April 2018 Mr H complained to Hoist about its bullying and harassment and about its failure to reply to his September 2017 offer to settle. He also continued to argue that the debt was statute barred, and he asked for a deed of assignment.

Initially, Hoist sent an incomplete response to Mr H's complaint. But by October 2018 it had apologised for its failure to action Mr H's settlement offer and said it was still happy to accept that amount. It also sent him a notice of assignment for the debt, but not the deed of assignment, which it described as a commercially sensitive document.

Mr H complained to us about the way Hoist had dealt with matters, about its refusal to send him both a deed of assignment and the credit agreement from the original creditors.

In summary, and after setting out the chronology of events, our investigator concluded that Mr H owed the money claimed by Hoist and that Mr H should contact the business to agree a settlement figure.

Mr H was dissatisfied with this and complained that Hoist was still harassing him whilst we were dealing with his complaint.

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 H has not sought to argue that he doesn't owe the money Hoist is pursuing him for, rather he has asked for copies of various documents that would prove that he does. In particular he has asked for a deed of assignment transferring debt ownership from the original creditor to Hoist. But instead Hoist has sent Mr H a notice of assignment saying that the deed of assignment is a commercially privileged document. It has also named the original creditor

and stated the sum owed at the time of the debt transfer. In my judgment it has done sufficient, and there is no requirement for it to send Mr H the deed of assignment.

Mr H believes that because more than six years has elapsed since the debt was incurred, it is statute barred and can no longer be collected. But the debt was made subject to a court order in 2008 and I'm afraid that if Mr H wants to argue his statute barred point he will now need to do so through the courts. But my understanding of the position is that it is not possible to apply to dismiss a debt on the grounds of it being statute barred once a court order has been granted.

Mr H has complained that Hoist has caused him a great deal of stress in pursuing him for a debt that he doesn't necessarily accept that he owes. But as long as businesses adhere to the rules and guidance applicable to the collection of debts, they are entitled to be proactive in seeking repayment of money owed to them, and to send clear and firmly worded correspondence. And having looked at the letters sent by Hoist to Mr H I am satisfied that these do not amount to harassment, although I recognise that Mr H may well have found that they caused him stress.

Mr H has said that Hoist didn't reply to his acceptance of its settlement offer, and that it hasn't always replied to other correspondence from him. Hoist has apologised for its lapse in not progressing Mr H's offer to settle. It did however repeat that offer in October 2018, and made a further offer in November 2018. But the debt remains outstanding and Mr H hasn't contacted Hoist to agree a way forward. I suggest that he now does so.

Having considered the full details of Mr H's complaint, I am satisfied that it is more likely than not that he owes the debt claimed by Hoist, and I recommend that he contacts the business to arrange to repay some or all of the amount he owes. In considering a settlement figure Hoist will no doubt wish to take account of Mr H's financial circumstances, and if he is experiencing financial difficulty, it must treat him positively and sympathetically.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 September 2019.

June Brown
ombudsman