

complaint

Mr G complains that Marshall Hoares Bailiffs Limited harassed him in pursuit of a debt.

background

Mr G took out a short-term loan with a third party in June 2011 but was unable to repay it as scheduled. The debt was passed to Marshall Hoares who began attempts to contact Mr G, including phoning him at work. Mr G asked Marshall Hoares not to phone him and instead correspond only in writing; Marshall Hoares refused. Mr G says this caused him severe embarrassment and incurred the displeasure of his employer. Marshall Hoares has continued to add interest to the debt of £72 every two weeks throughout this period.

Our adjudicator upheld the complaint. He found that Marshall Hoares had not met the requirements of the Office of Fair Trading (OFT)'s debt collection guidance. He concluded that it had acted unreasonably and unfairly in pursuit of Mr G's debt and recommended it remove all charges applied to Mr G's account after 8 August 2011, when Marshall Hoares was first aware Mr G was in financial difficulties. He also recommended that it pay Mr G £300 to reflect the distress and inconvenience its actions have caused him.

Marshall Hoares did not accept those conclusions so the matter was referred to me for review and determination.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I uphold this complaint.

The OFT's debt collection guidance lists examples of unfair practices. These include:

- *"ignoring or disregarding debtors' reasonable requests in respect of when, where and how to contact them. For example, shift workers may ask not to be telephoned during certain times of the day. Also, some debtors may request contact by email rather than by telephone";*
- *"inappropriately disclosing, or threatening to disclose, debt details to third parties";*
- *"acting in a way likely to be publicly embarrassing to the debtor, either deliberately or negligently (that is to say, through lack of care). For example: asking others to pass on messages to debtors, and in so doing, potentially revealing to them that the intended recipients of such messages are being pursued for payments of debts".*

I find that Marshall Hoares did all of these.

In early August 2011, Mr G asked Marshall Hoares to communicate with him only in writing and repeated this request after it left a voicemail on his mobile phone a few days later. I understand that Mr G wished to keep a written record of all correspondence about the debt and can also understand why he might want to do so. However, as shown by its internal notes for Mr G's account, Marshall Hoares ignored these and subsequent requests and continued to leave messages on his mobile phone throughout August and September.

These internal notes also show that Marshall Hoares started to phone Mr G at work in October 2011. Mr G asked it not to call him at work as the number was shared with colleagues (ie it was not a direct line) and reiterated his desire for all correspondence to be in writing. Again, Marshall Hoares ignored him. It continued to call his work number, often several times a day. Between October 2011 and January 2012, Marshall Hoares phoned Mr G at work dozens of times, leaving messages with Mr G's colleagues. Its notes also suggest that it ignored data protection procedures and left deliberately misleading messages for Mr G.

I am satisfied that Marshall Hoares was aware that Mr G was in serious financial difficulties from 8 August 2011. I do not consider it reasonable for it to continue to add interest of £72 every two weeks, particularly as it was ignoring Mr G's requests about his reasonable requests in respect of when, where and how to contact him. I am also satisfied that its actions were in breach of OFT requirements. I find that Marshall Hoares should remove all interest and charges applied to Mr G's account from 8 August 2011 and stop applying any more interest to the account.

I also find that Mr G has suffered a significant amount of distress and inconvenience as a result of Marshall Hoares' actions. I believe that an award of £300 is reasonable to reflect this.

my final decision

My final decision is that I uphold this complaint and order Marshall Hoares Bailiffs Limited to:

- stop applying interest to Mr G's account;
- remove all interest and charges applied to Mr G's account after 8 August 2011; and
- pay Mr G £300 to reflect the distress and inconvenience this matter has caused him.

Mr G entered an Individual Voluntary Arrangement (IVA) in March 2012. The IVA supervisor has told this service that any monetary award would need to go towards the IVA. Marshall Hoares should pay this directly to the IVA supervisor whose details can be found in the covering letter accompanying this decision.

Simon Begley
ombudsman