

complaint

Mrs Y has complained that Motormile Finance UK Limited, trading as MMF, did not tell her that they now owned three of her debts. They also did not respond to her requests to deal with her in writing.

background

Mrs Y has some debts which she had not paid. These were sold to MMF who contacted her to collect the money. Mrs Y did not believe she had been formally told that MMF now owned these debts and wanted to ensure that they dealt with her in writing. She got in touch with the ombudsman service in December 2013 and we contacted MMF on her behalf. We asked them to investigate her complaint and respond formally.

Mrs Y received requests from MMF in January and February 2014 about arranging a home visit. MMF issued a final response in March confirming that they had provided formal notices of assignment to Mrs Y and that she had not responded to their request for arranging payment. Mrs Y still wanted this service to review her complaint.

Our adjudicator considered that MMF were not following Office of Fair Trading guidance on debt collection in not considering Mrs Y's reasonable requests to be dealt with in writing. He felt that MMF should pay Mrs Y £100 for their handling of the complaint. MMF disputed these findings and this case has now been referred to an ombudsman for decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where there is a dispute about what happened, I have based my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in the light of the evidence.

It's worth saying at the outset that Mrs Y does not dispute she owes the money from these three debts, totalling just over £1,200. She has in fact made an offer to pay £100 per month for all three debts to MMF.

There are three different aspects to this complaint and I will deal with these separately.

MMF's final response

I have seen two different final responses from MMF dated 24 March and 7 April 2014. MMF say that they only received Mrs Y's complaint on 14 February 2014 so their response is within the eight week timescale. However the ombudsman service wrote to MMF on 18 December 2013 informing them that Mrs Y had raised a complaint. I am satisfied that even the response dated March 2014 is about 12 weeks after the complaint was first raised. MMF is aware that this service takes this issue seriously.

notices of assignment

MMF told our adjudicator that they had issued notices of assignment for all three of Mrs Y's debts and provided an example of a system-generated notice of assignment. It seems odd to me that, for at least one of these debts, a notice of assignment did not appear to have been sent to Mrs Y before MMF started requesting payment of the debt on 25 January 2014. After

our adjudicator had laid out this information to MMF in his view, they confirmed that they had in fact sent out a notice before that date.

I know that Mrs Y has said that she never received any notices of assignment. There is no clear evidence either way but on balance I am satisfied that MMF did not provide the necessary notices of assignment to Mrs Y. MMF may be disappointed by this decision but in fact it is their treatment of Mrs Y in trying to arrange collection of the debt that has had the main impact on the redress that I propose below.

were MMF harassing Mrs Y in requesting a home visit?

Mrs Y firmly believes that she was being harassed by MMF and that they continued to ask her to make arrangements for a home visit when she asked them specifically to contact her in writing only. The OFT guidance for debt collection says that a company collecting debts should accept a customer's reasonable requests about how to contact them.

I have reviewed the emails from MMF that Mrs Y has provided us. For one of the three debts, she received five emails over a 10-day period. Many of these emails were sent at weekends, at midnight or very early in the morning. I do not consider that MMF were operating wholly within the guidelines for debt collection, although it would not be fair to say that these constitute harassment either.

In considering what is appropriate redress, I am aware that MMF had an opportunity to resolve this complaint much earlier and this has not happened. Although I'm not going to require MMF to enter into a specific payment plan for the repayment of the debt, I strongly suggest that they consider Mrs Y's offer of paying them £100 a month which appears to be a reasonable offer. In light of MMF's actions, I do consider it fair and reasonable that they pay Mrs Y £200 for the distress caused. As Mrs Y continues to owe more than £1,200, I am happy for MMF to offset this amount from the money Mrs Y owes.

my final decision

For the reasons set out above, my final decision is to uphold Mrs Y's complaint and instruct Motormile Finance UK Limited (trading as MMF) to reduce her outstanding debt by £200 as compensation for the distress caused to her.

Sandra Quinn
ombudsman