

complaint

Miss B complains that during phone calls with BW Legal Services Limited she was twice mis-gendered. She feels she should be compensated.

background

Miss B tells us she's been in contact with BW regarding a debt she owes. She says she's twice been mis-gendered in telephone calls. On the first occasion she said she had accepted an apology. But when she'd reasons to call it some months later she says she was again addressed as "sir". She describes herself as being upset and losing confidence as a result of this. She doesn't think BW has taken her complaint seriously.

BW tells us it was instructed by a client in 2016 to recover money owed by Miss B. It lists numerous contacts with Miss B and denied its call handlers ever referred to Miss B as "sir". It said the disputed word was "so".

The investigator recommended the complaint should be upheld. He said he'd listened to a call on 28 November 2017 and concluded Miss B had been addressed as "sir". He didn't consider this malicious but he felt it had a very detrimental impact on Miss B. And he said Miss B had been caused further anxiety the next day - when a manager called her to discuss her complaint. He felt the manager hadn't been properly prepared as he hadn't listened to the call. He didn't find evidence of the second alleged incident - as Miss B hadn't been able to provide a specific date. And the call recordings BW provided had been in logical sequence. He felt they only contained one instance of mis-gendering. He thought BW should pay £200 for the trouble and upset caused to Miss B over the way this matter had been handled.

Miss B didn't comment upon the investigators view. BW didn't agree and described this service's approach as *"a witch-hunt and, in fact, you are deliberately prejudicing us and our business because of the fact that our staff have regional accents.."*

It wanted an ombudsman to make the final decision.

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 can see from the evidence and correspondence with both parties that each holds a strong view on the circumstances of this case. And there is a crucial dispute on an issue of fact. In this case it surrounds whether the word "sir" was used by a call handler to address Miss B - and if so whether it occurred on one or two occasions.

Miss B has clearly described the degree of personal distress and doubt issues of gender can create for her if they're not properly handled. And whilst she recognises - and I use her own words - *"it may seem the issue is menial"* - it's clearly a matter which is important to her. And she is entitled to respect as an individual.

Where the factual basis of a complaint is in dispute I have to decide what I think probably happened. In this case that amounts to deciding if the disputed word used was more likely to be "sir" or "so".

In determining this I think I have to address the concerns of BW. It's not provided any evidence in support of its view that prejudice is being shown due to some of its staff having a regional accent.

I've listened to the phone recordings which have been provided by BW - these are of reasonable quality. In order to try and be as objective as the situation allowed (having regard for the fact I had to know what I was being asked to decide) I played the tapes in succession. I made a contemporaneous note of the occasions when I recognised the word "so" and when I heard the word "sir". The word "so" can be heard on numerous occasions on the different recordings. In my opinion the word "sir" is used once to address Miss B. That's during the call on the 28 November 2017. I've since replayed the recordings - and I've found no reason to change my opinion.

I'm aware BW will not agree with this and considers it has "proved" this didn't happen. I disagree. But I think it fair to point out that BW was aware of the sensitivity of this matter to Miss B well before the time of the relevant call. It had dealt with a similar issue just under a year earlier. Whilst Miss B couldn't remember the date - it seems likely this was 30 November 2016 - as I've seen reference to it in letters which BW sent to her. So I'd have expected BW to try to ensure its staff was aware of the potential for distress to be inadvertently caused.

In summary, I find on a balance of probabilities Miss B was mis-gendered in the call of 28 November 2017. I believe this was entirely unintended and I recognise from time to time mistakes can occur even in a well-run business. But given BW knew or ought to have known of the particular distress and the impact an error of this kind was likely to cause to Miss B I think it should have made greater efforts to try to reduce the possibility of such error.

So I think the complaint should be upheld and Miss B should receive £200 compensation. I consider this fairly reflects it was a single, inadvertent error but one which caused avoidable distress to her.

my final decision

For the reasons given above my final decision is I'm upholding this complaint.

I'm ordering BW Legal Services Limited to pay £200 compensation to Miss B for the distress and inconvenience caused by the poor service it's provided in its dealings with Miss B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 1 December 2018.

Stephen D. Ross
ombudsman