



### **Are you being Harassed for maintenance fees?**

If as a result of you falling behind with your maintenance fees and your creditors/timeshare company/ Debt collection agencies tries to do any of the following things to recover the money you owe, then in certain circumstances the following could be considered as harassment. Examples of this would include:

- Contacting you several times a day, or early in the morning or late at night
- Pursuing you on social networking sites
- Putting pressure on you to sell your home or take out more credit
- Using more than one debt collector at a time to chase you for payment
- Not telling you if the debt has been passed on to a debt collection agency
- Using paperwork or business logos that appear to be official when they're not, for example, sending you letters that look like court forms
- Putting pressure on you to pay all the money off, or in larger instalments when you can't afford to
- Threatening you physically or verbally
- Contacting you if you say you don't owe the money – for example you are fully up to date with maintenance fees.
- Falsely claiming to work for the court or be a bailiff
- Implying that legal action can be taken when it can't. For example, implying that your home can be taken from you without a court order
- Giving the impression that court action has been taken against you when it hasn't
- Giving the impression that not paying the debt is a criminal offence. For most debts, it is not a criminal offence if you don't pay them.

However, it is important to point out that not all contact from companies seeking to recover monies would constitute harassment. For example:

- Sending occasional reminders and demands for payment
- Telephoning you to ask for payment at reasonable times of the day – but NOT several times a day
- Calling at your home, as long as this is at a reasonable time of the day and you have agreed to the visit in advance.
- Taking court action – which is what a creditor can ultimately do, however, this should always be a LAST resort.

### **Evidence that you would require in order to Support a harassment claim by the creditor**

Before making a complaint, try and gather as much evidence as you can to support your claim. Such evidence could include;

- Recording the number of visits or calls with dates and times. Write down what was said to you each time and to whom you spoke.
- All letters or documents you have received emanating from the timeshare company or their agents- ALWAYS keep these.
- Possible witness statements from neighbours or other people who live with you - if numerous visits have been made to your home (Which happens only very rarely.)

### **The best way to complain**

If you feel that you are being harassed by any of the above, then please get in contact with this office to discuss this matter further. Here at Sarah Waddington Solicitors we take this matter very seriously.

Upon receipt of your instructions in this matter we shall assess whether this does indeed constitute harassment taking the above factor into account and if this does constitute harassment we shall write to the company who is contacting you asking them to **stop**.

We will also Point out in our letter that harassment is a **criminal offence** and that we will take further action if this harassment continues

Once in receipt of our letter they have **3 business days** to respond informally. This could be by phone or email. A final response letter might take longer, but should be within 8 weeks.

Your creditor must report your complaint to the Financial Conduct Authority (FCA), even if they respond within 3 business days. This could ultimately lead to the removal of their licence to carry out this activity.

For your information any organisation which is harassing you for payment of a debt which they say is owned, whether it be for maintenance fees or any other kind of debt, it's always a good idea to check whether they belong to a trade association which has a code of practice. Trade association may also take action against its members who habitually break their code of practice.

All financial institutions including **bank, building society or credit card company**, have to adhere to **The Lending Code**.

The Lending Code sets out **standards** that its members should follow. These include:

- Allowing you more time if you are in financial difficulties before further action is taken
- Guidance and support if you have fallen into debt because of mental health problems
- Using trustworthy debt collection agencies who also follow The Lending Code if the debt is passed on or sold
- Telling you before they pass or sell your debt to a new debt collection agency. This means that you should not be contacted by the new debt collection agency until after your lender has told you that your debt is to be moved.

If your complaint is against one of the above type institutions then You should complain to the bank, building society or credit card company first, using their complaints procedure. If this does resolve the problem, and you do not receive a satisfactory complaint within 8 weeks then you can refer your complaint onto the **Financial Ombudsman Service**, informing them that a debt collector or creditor has broken the terms of The Lending Code.