

complaint

Mr F is unhappy that Bryan Carter Solicitors LLP has been chasing him for payment of a debt owing to its client. He says this is in breach of various regulations as the debt is statute barred and no longer legally enforceable. He wants an apology and compensation.

background

Our adjudicator felt this complaint shouldn't be upheld. She said:

- We don't have the power to make a ruling on whether a debt is statute barred or not. Only a court can do that.
- The rules Mr F refers to say debts shouldn't be pursued if they're confirmed to be statute barred. But in this case a court hasn't decided that's the case. It's only Mr F's belief.
- We can only consider if Bryan Carter Solicitors' client was right to ask for repayment of the debt by instructing its solicitors and had a valid reason for asking for repayment. Mr F doesn't appear to have disputed taking out the original loan and she's satisfied the debt is legitimate. Bryan Carter Solicitors' letters show that the balance is yet to be repaid.
- It was open to the debt's owners to take reasonable enforcement action and to instruct Bryan Carter Solicitors to start legal proceedings to recover it. It was fair for the solicitors to ask for repayment. The contact Mr F had with it wasn't excessive or threatening. So, it's not fair to tell it to compensate Mr F for any upset he may've experienced.

Mr F doesn't agree and has asked for an ombudsman review. He says in summary that it's up to the creditor to prove the debt is legally owing. He still thinks the debt is statute barred and the solicitors shouldn't have contacted him.

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 agree with the adjudicator's conclusions for the same reasons.

Although I recognise Mr F's frustration and strength of feeling I don't see a compelling reason to change the proposed outcome in this case.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 22 March 2016.

Stephen Cooper
ombudsman