

complaint

Mr A complains about a debt Lowell Financial Ltd is asking him to repay.

background

Mr A had an overdrawn account with a bank I'll call B. In 2013, Lowell bought this debt from B and wrote to Mr A to explain that this is what had happened and asking him to pay the money back.

Mr A disputed that he owed the money. He said B had mis-sold him PPI which caused him to be in debt. He said that because B owed him money for mis-selling the PPI, that meant he didn't have to pay back this debt to Lowell.

Lowell spoke to B, who said Mr A didn't have PPI on this particular bank account. So Lowell told Mr A it still thought it was entitled to pursue the debt. Mr A didn't agree, and in 2014 Lowell obtained a county court judgement (CCJ) against Mr A in relation to the debt.

Mr A maintained he didn't have to pay this money back because of what he was owed by B for mis-selling him PPI. In 2016 he complained to Lowell, reiterating his argument and also saying it (and its agents) had harassed him for a debt he'd shown he didn't have to pay. He added that due to the time that had passed he also considered Lowell were too late to pursue him for the debt anymore because it was now statute-barred.

One of our investigators looked into things and concluded Lowell had acted fairly towards Mr A. He thought it was reasonable for Lowell to have thought this debt was payable, and that if Mr A disputed the enforceability of the debt for any reason, that was something only the courts could decide upon. He didn't think Lowell had been unreasonable in the way it had pursued the debt, and thought any concerns Mr A had about the PPI he'd been sold were between him and B and not something Lowell could be held responsible for.

Mr A disagreed and asked for an ombudsman to decide the matter. He said Lowell should have known B owed him money and stopped pursuing him for the debt.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As our investigator said, whether or not the debt Lowell's pursuing Mr A for is enforceable or not is ultimately a decision for the courts. I can see Mr A intends to challenge the debt in court, and, if he doesn't accept it, this decision won't preclude him from raising any arguments he chooses to do there.

What I've had to consider is whether Lowell acted fairly in pursuing Mr A for this debt.

Mr A argues his debt is clearly statute-barred because he stopped paying it in 2010. But Lowell obtained a CCJ in relation to this debt in 2014, which effectively "resets the clock" for whether or not a debt is too old to be pursued. So I don't think it's unreasonable for Lowell to continue asking Mr A to pay this debt now.

Mr A's also said Lowell shouldn't be pursuing him because his debt only arose due to PPI he was sold by B – and that B's now acknowledged this and paid him some compensation. It's important here to separate the issues Mr A has with B, and the sale of the PPI - and the actions of Lowell in pursuing the debt which Mr A built up in an overdraft on his current account.

Mr A didn't have PPI on his overdraft, he had it with some loans he took out with B. He may argue that the PPI on his loans contributed to his financial difficulties, which resulted in the overdraft Lowell is now pursuing him for. But that's something B would be responsible for and a complaint which should be directed at B, not Lowell.

Lastly, I've looked at the correspondence and call records between Lowell and Mr A over the years. Having done so I'm satisfied it acted appropriately and fairly in the frequency and tone of its letters and conversations, pursuing a debt I think it was reasonable for Lowell to have thought it was owed.

So overall I'm not persuaded Lowell treated Mr A unreasonably. If Mr A still disputes the debt its asking him to pay, he can argue his case in court. And if he thinks the debt arose because of something B did wrong, he can complain to B about that.

my final decision

For the reasons I've given I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 29 April 2019.

Luke Gordon
ombudsman