

complaint

Mr S has complained that Robinson Way Limited is chasing him for a debt which he believes is statute barred.

background

Mr S owed Barclaycard £8,637.30. This debt was sold to a debt collecting company in 2011 and eventually to Robinson Way.

In March 2016, Robinson Way wrote to Mr S and asked him to complete a financial statement. The amount due showed as £9,008.38. Mr S replied to say he was suffering long term sickness and could only afford to pay £1 per month. He completed the financial statement and included copies of his sick notes.

Robinson Way wrote to Mr S again and said it was aware that Mr S was experiencing difficulties and wanted to help by agreeing an affordable arrangement and asked him to make contact.

Mr S raised a formal complaint and said he believed the debt was statute barred. Robinson Way replied to say it didn't agree the debt was statute barred as it had six years from the date of last payment or acknowledgement of the debt. And Mr S had made payment of £1 in November 2015. As this was within the last six years, it didn't think the debt was statute barred. It said it would place Mr S' account on hold for 30 days to allow him time to contact the collections team and discuss repayment of the debt.

Mr S asked our service to look into his complaint. Our investigator didn't think Robinson Way had done anything wrong as it was entitled to chase a debt that had been sold to it. And it was trying to come to an arrangement with Mr S which the investigator thought was fair.

Mr S disagreed and said that other creditors had written off debts and so Robinson Way should do the same. He said he was considering taking the case to court and wasn't happy about a £410 fee that had been added to the debt in 2014.

And so the case has been passed to me for a 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. Having done so, I don't think Mr S' complaint should be upheld. I'll explain why.

Firstly, I'd like to say this service can't make a decision about whether a debt is statute barred. That would be a matter for the courts. But this service can decide whether it's reasonable for a business to chase a debt.

In this case, I've seen that Robinson Way have been writing to Mr S regularly to try to come to an arrangement as he is in financial difficulty and has been unwell. Robinson Way has also explained that as Mr S last made payment in 2015, this is when the six years starts from and so it doesn't consider the debt is statute barred. This explanation seems reasonable to me.

Turning now to the debt amount, Mr S says that the debt amount should be £8,637.30 as this was the closing balance on the Barclaycard statement. But Robinson Way is pursuing him for £9,008.38. The higher amount includes a £410 fee which was added in 2014.

I've asked Robinson Way to clarify the fee which was added in 2014. It has confirmed this related to court action which was started in 2014. Mr S had entered a defence to a claim at the time and so should be aware of these proceedings. It has said it's happy to provide evidence of the court paperwork to Mr S if he's forgotten about this.

Mr S hasn't raised a complaint about this specific fee with Robinson Way. But the explanation it has given does seem reasonable. If Mr S wishes to see evidence of court proceedings in 2014, he should contact Robinson Way and ask it for a copy. If Mr S remains unhappy once he's received this evidence, he is free to raise a further complaint about the fee if he wishes to do so.

In summary, I don't agree with Mr S that Robinson Way is unreasonably pursuing him for the debt. If Mr S remains of the view that the debt is statute barred, the correct forum for that would be the courts. Mr S has already indicated that he wishes to take this matter to court and that is an option available to him. But based on what I've seen, I don't think Robinsons Way are chasing the debt unreasonably.

I appreciate Mr S will be disappointed and I'm sorry to hear of his difficult personal and financial circumstances. But as I don't think Robinson Way has done anything wrong, I won't be asking it to do anything.

my final decision

For the reasons set out above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 July 2018.

Shamaila Hussain
ombudsman