

complaint

Ms R complains that Nationwide Building Society ("Nationwide") is seeking to recover a debt from her which she says is statute barred and so irrecoverable. Ms R is assisted in bringing her complaint by her legal representatives.

background

In 1999 Ms R took a loan with Nationwide, jointly with her late husband, from whom she later separated. Ms R says, on separation, she agreed with her late husband that he would repay the debt and she'd no longer be responsible for it. The loan remained outstanding and the last payment was in May 2010. Ms R was contacted in April 2016 by a debt collection agency, on behalf of Nationwide, for repayment.

Ms R says that more than six years have now passed since she made any acknowledgement or payment in respect of the debt. So under the Limitation Act 1980 the debt is statute barred and cannot be enforced against her. She complains that notwithstanding this, Nationwide is still pursuing her for repayment contrary to the guidance of the Financial Conduct Authority (FCA) in its Consumer Credit Sourcebook.

Nationwide says that Ms R made contact with the debt collection agency in April 2016 and so had acknowledged the debt. So they didn't agree the debt was statute barred. Ms R disagreed and complained to this service via her representatives.

Our adjudicator didn't recommend that this complaint should be upheld. She said that only the courts could decide if a debt was statute barred. So we couldn't say whether or not Nationwide was entitled to chase Ms R for payment of this debt.

Ms R asked for this complaint to be reviewed, so it's been passed to me to issue 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'm not satisfied this is a complaint I can fairly and reasonably uphold.

As the adjudicator has said, it's not for this service to say whether or not a debt is legally enforceable – only the courts can do that. So I can't comment on the technical issue of whether under the Limitation Act 1980 Nationwide is legally entitled to recover payment of the debt from Ms R, or if it's now statute barred.

That being so, I can't say that Nationwide has done anything wrong. Or that they've acted contrary to the FCA's guidance.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 15 December 2017.

Annabel O'Sullivan
ombudsman