

complaint

Miss A complains about a debt that MKDP LLP purchased and is seeking to recover. She believes the debt is statute barred, so MKDP should no longer be seeking payment from her; the date the account was defaulted is incorrect; and, she is unhappy about the way it dealt with her complaint.

background

The complaint was considered by one of our adjudicators, who did not recommend it be upheld. In summary, he did not think it was unreasonable for MKDP to continue to seek repayment of the debt and although the default date was incorrect it has now been corrected. He did not think that MKDP had dealt with the complaint particularly badly that it warranted a payment to Miss A.

Miss A did not accept the adjudicator's findings and asked for her complaint to be reviewed.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have not upheld this complaint.

Miss A believes that MKDP should not be seeking repayment of the debt as she believes it is statute barred. A debt could become statute barred (in England and Wales) if it has not been acknowledged in six years. In this instance however MKDP says Miss A made a payment to the account in 2009 when it was with a different collection agent. It is for this reason that MKDP believes it is still able to seek repayment of the debt and it does not consider it to be statute barred.

The adjudicator obtained information from the company that previously dealt with the debt to establish if Miss A did make the payment. The notes from around that time refer to discussions with Miss A and what payments she may be willing to make. The payment is made around the time of those discussions and although I note that Miss A continues to dispute the debt, I consider it more likely than not that Miss A did make the payment in 2009.

I should also be clear that I have no power to declare a debt statute barred as this will be for a court to decide if MKDP takes further legal action against Miss A. Having considered the circumstances here I am not persuaded that MKDP has acted unreasonably or unfairly by continuing to seek repayment of the debt from Miss A.

It is now clear that a default relating to this account was incorrectly recorded on Miss A's credit file. MKDP has a responsibility to ensure that information relating to this debt is accurate and this would apply to information recorded on a credit file. I note however that when this was raised with MKDP as part of her complaint the default date was corrected. The default has now been removed from Miss A's credit file.

I have noted what Miss A says about how this has affected her ability to obtain credit but I have not seen sufficient evidence to persuade me that this is the only thing that affected the availability of credit to Miss A. There are a number of factors that will affect a consumer's

ability to obtain credit and there could be additional unrelated factors that have influenced a lender's decision on what, or how much credit, it would offer Miss A.

Miss A is also unhappy about the way her complaint was dealt with and that MKDP continued to seek repayment of the debt during this period. I do not think it is unreasonable for MKDP to have continued, in the circumstances here, to seek repayment of the debt after Miss A had complained. The debt was not actually in dispute and as I have found above, MKDP is entitled to seek repayment of this particular debt.

I accept that MKDP could have handled Miss A's complaint better but I do not consider this caused Miss A any loss, or any distress or inconvenience that would warrant a monetary award.

I appreciate Miss A will remain unhappy with my decision but there are insufficient grounds for me to uphold this complaint.

my final decision

My final decision is that I do not uphold this complaint and I make no award or direction against MKDP LLP.

Mark Hollands
ombudsman