

complaint

Ms M complains that Cabot Financial (UK) Limited asked her to repay a debt that she believes is statute barred.

background

In 2001 Ms M owed money to a bank, which she didn't pay back. The bank later sold the debt to a company I'll call E. Then E sold the debt to Cabot in 2013.

Cabot asked Ms M to pay the debt. She said they weren't able to do this because too much time had passed. She asked them to confirm the debt was 'statute barred'. Cabot said they wouldn't do this because Ms M had paid E £20 in 2010. But they said they wouldn't pursue her any more. Ms M wanted the debt written off and declared statute barred.

Our adjudicator said Cabot hadn't given us enough evidence of the £20 payment they said Ms M had paid to E in 2010. Cabot had agreed three other of Ms M's debts with them were statute barred. It wasn't reasonable they had refused to declare this one statute barred. So they should confirm to her in writing that they had written off the debt, and update her credit file to confirm this. Cabot didn't agree, so the complaint's 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.

Ms M says the debt to Cabot is statute barred, and she wants Cabot to confirm that in writing. Cabot doesn't agree. They say Ms M made a payment in 2010, and this means she acknowledged the debt within the last six years. And so the debt isn't statute barred.

Legally, if someone who owes money doesn't hear from the business he or she owes money to for six years, it may be that the outstanding debt is statute barred. This means the business cannot use the legal system to enforce payment of the outstanding debt.

I appreciate why Ms M wants us to confirm the debt is statute barred, and make Cabot confirm that in writing. But only a court can declare a debt statute barred. I look at what is fair and reasonable in all the circumstances of the complaint.

Here, Cabot hasn't tried to take court action against Ms M and they've agreed not to pursue her for the debt. I don't think that goes far enough. I agree with the adjudicator that they've not given us sufficient evidence that Ms M did make a payment to E in 2010. So I consider a fair and reasonable outcome is for Cabot to write off the debt and update Ms M's credit file. They should also write to her to confirm they've done this, and that they won't pursue her any further for the debt.

I understand Ms M wanted us to go further. I've explained why I can't declare the debt statute barred. And if she accepts my decision she won't be pursued for the debt, which I think is the outcome she was looking for.

my final decision

My decision is that I uphold this complaint. I order Cabot Financial (UK) Limited to write off the debt that is the subject of this complaint and update Ms M's credit file to reflect this. They must also write to Ms M to confirm they have done this, and that they won't pursue her for this debt any more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 5 October 2015.

Amanda Maycock
ombudsman