

## **complaint**

Mr B complains that Lowell Portfolio I Ltd ("Lowell") is seeking to recover a debt from him which he says is statute barred and so irrecoverable.

## **background**

Lowell says that in December 2012, it bought a debt which Mr B owed to a company I will call Company M. It says this related to an unsecured loan made by Company M to Mr B in January 2007. It also says that Company M sent a default notice to Mr B at his last known address in May 2011, although it doesn't have a copy of this on its file.

Mr B says that more than six years have now passed since he 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 him. He complains that notwithstanding this, Lowell is still pursuing him for repayment contrary to the guidance of the Financial Conduct Authority (FCA) in its Consumer Credit Sourcebook.

Lowell says that the six year limitation period didn't start to run until Company M sent the default notice to Mr B in May 2011. So the debt isn't statute barred yet.

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

Mr B asked for his complaint to be reviewed, so it has 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.

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 Lowell is legally entitled to recover payment of the debt from Mr B, or it's now statute barred.

That being so, I can't say that Lowell has acted wrongly, or contrary to the FCA's guidance.

## **my final decision**

For the reason I have set out above, my decision is that I don't uphold this complaint, and make no order against Lowell Portfolio I Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 January 2017.

Lennox Towers

**ombudsman**