

complaint

Mr M complains that Link Financial Outsourcing Limited ('Link') is threatening legal action for a credit card debt he knows nothing about.

background

Mr M said he received a letter from Link giving him 14 days to reply before bailiffs and solicitors became involved. He found it quite alarming and threatening. The letter only had a reference number. It didn't mention any credit card or bank account details. It seemed to relate to something from around 2001-2005 so it should be statute barred. And Mr M wants evidence of a contract from the business.

Link said it wrote to Mr M in September 2018. It'd tried repeatedly to contact him about an account. It wanted to agree an affordable repayment plan to clear the outstanding balance. Link said the conditions to bar the debt hadn't been met. It hadn't been written off. A county court judgement had been granted on 16 February 2011. So the debt was still enforceable.

Mr M wasn't satisfied with Link's response. So he contacted our service and our investigator looked into the matter. She could see Mr M had taken out a credit card in 2001. He defaulted on the account in September 2007. And the debt was assigned to Link in October 2007. She'd seen call logs to show Link had made contact with Mr M in which he'd acknowledged the debt.

As the debt was more than six years old it wouldn't show on Mr M's credit file. But she couldn't say if the debt was legally enforceable. That was for the courts to decide. A county court judgement had been granted to Link in February 2011. And it wasn't within our service's power to overrule or set aside a judgement of the court. So she couldn't say Link had acted unreasonably in pursuing the debt.

Mr M didn't agree. He doesn't recall speaking to Link. And he's not seen a copy of the county court judgement. So he's asked for an ombudsman's 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.

Mr M says he doesn't know anything about the debt he's being chased for. And in any event it should be statute barred as it's more than six years old. So I've looked carefully at everything that's happened and whether Link has done anything wrong.

Link says under the Limitation Act 1980 a creditor must try and recover most unsecured debts within six years of the last payment. But if a county court judgement (CCJ) is issued before that period ends the debt can be enforced at any point.

According to Link's records a debt of £8325.33 was assigned to it on October 2007. And a county court judgement (CCJ) was granted on 16 February 2011. So Link says the debt is still enforceable.

I realise Mr M would like to see a copy of the judgement against him. He says it's up to Link to provide evidence it exists. And he won't ask the court for a copy himself.

It's disappointing Link hasn't been able to produce more information. But businesses are only required to keep records for a certain period of time. And the order was granted more than eight years ago. Instead Link has provided the court details and reference number should Mr M wish to get a copy.

Mr M's credit card account went into default in September 2007. And the debt was assigned to Link the following month. I've looked at Link's activities log. And it shows attempts to contact Mr M by letter and telephone from 2007. Although most are unsuccessful there are notes of conversations with Mr M about the debt between 2008 and 2010. So I think it's reasonable to believe that a debt exists and it's in Mr M's name. And that Mr M would've been aware of the debt and that it'd been assigned to Link.

Although Link hasn't been able to provide an actual copy of the county court judgement it has given details of the date and issuing court. If Mr M wants to set aside the CCJ then it's a matter for the court to review. That's not something our service can do. It would be for the court to decide whether or not the debt was statute barred.

The role of this service is to see if Link has made any mistakes. And if so what it needs to do to put things right. There is evidence to suggest the debt exists. Link has provided details of a county court judgement and says the debt is still enforceable. And Mr M hasn't provided any evidence to suggest this is wrong.

I know Mr M will be disappointed with this outcome. But based on what I've seen I can't really say Link has acted unfairly by pursuing Mr M for the debt.

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 Mr M to accept or reject my decision before 6 October 2019.

Andrew Mason
ombudsman