

## **complaint**

Mr W complains that Westcot Credit Services Limited obtained a county court judgment against him for a debt that was statute barred. He also complains that Westcot failed to take reasonable steps to trace him, meaning he was unaware of the court action and was unable to defend it.

## **background**

Mr W had an outstanding debt with a third party that was subsequently bought by Westcot. Mr W made regular monthly repayments towards the debt until August 2008. Westcot took court action against Mr W in 2011 and obtained a county court judgment (CCJ) against him.

Mr W says that he had not had any correspondence from Westcot in over three years before the court action and was only contacted by Westcot after it had obtained the CCJ. Mr W says this was unfair. He also complains that the debt was statute barred and that Westcot sent him incomplete or fabricated information following a subject access request.

Our adjudicator did not uphold the complaint. He was not persuaded that Westcot had deliberately set out to conceal the court action from Mr W by sending correspondence to his former address or that Westcot had acted incorrectly in pursuing the court action. Nor was he persuaded that the debt was statute barred. Finally, he referred Mr W to the Information Commissioner's Office (ICO) for any complaint about the handling of the subject access request.

Mr W did not accept those conclusions so the matter was referred to me.

## **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 do not uphold the complaint.

First, I am satisfied that the debt was not statute barred. Whilst section 5 of the Limitation Act 1980 says "[a]n action founded on simple contract shall not be brought after the expiration of six years from the date on which the cause of action accrued", Part 2 of the Act considers when this time limit may be extended. For example, section 29(5) says that if a debtor "acknowledges the claim or makes any payment in respect of it the right shall be treated as having accrued on and not before the date of the acknowledgment or payment" [my emphasis]. Mr W paid £10 per month towards the debt by standing order until August 2008. Westcot took him to court in November 2011. As Mr W's last payment was in August 2008, and Westcot took court action within six years of that, the debt is not statute barred.

Mr W says Westcot did not take reasonable steps to contact him before taking legal action and asked the court to enter judgment "*knowing they had obstructed [him] in receiving any advance notification for defence*". On balance, I am satisfied that Westcot tried to contact Mr W at the last known address it held for him. I am not persuaded that it should have done more to trace Mr W before it began court action. In any case, and as our adjudicator has explained, this service cannot overturn or set aside a judgment by the court. Should Mr W wish to have the judgment set aside because Westcot did not allow him to mount a defence, he must apply for this directly to the court.

Finally, Mr W believes Westcot has provided fabricated or incomplete information to him following a subject access request. As our adjudicator has explained, the ICO is responsible for enforcing the Data Protection Act and similar legislation. Any complaint that Mr W has about his subject access request should be directed to the ICO.

**my final decision**

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

Simon Begley  
**ombudsman**