

complaint

Mr B complains about various errors that Arrow Global Limited, ("AGL"), made when it bought his debt.

background

Mr B had a credit card account with a card provider ("P"). P sold the account to a debt purchaser ("D") in January 2012, and D sold the account to AGL in November 2015. Mr B complained that there was no contract between AGL and himself, so they had no right to try and collect the debt from him. Mr B also said that AGL didn't send him a notice of assignment of the debt, and that the debt was statute barred. He is also unhappy that when he told AGL's agents ("M") about this, they contacted P, which breached the Data Protection Act.

The adjudicator didn't recommend that the complaint should be upheld. He said that the credit card's terms and conditions provided that P could sell the debt on. And once the debt was sold, the new debt owner didn't need a new credit agreement to try and collect the debt. The adjudicator had also seen that AGL had sent a Notice of Assignment to Mr B on 20 January 2016. With regard to the debt being statute barred, he noted that Mr B's last payment on the account was £1.70 on 16 November 2011. Whilst he couldn't say that the debt wasn't enforceable, he thought that it wasn't unreasonable for AGL to have tried to collect it. The adjudicator also noted that Mr B had said that when AGL had contacted P, it was a breach of the Data Protection Act. He thought that this was better investigated by the Information Commissioner's Office ("ICO").

Mr B disagreed and responded to say, in summary, that the adjudicator hadn't taken his dispute with P and the legal requirements into account in regard to transferring data and the sale of the debt.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I note that Mr B said that the adjudicator hadn't taken into account the laws relevant to his complaint and he has provided us with numerous references to the laws he believes are applicable. But, we offer an informal dispute resolution service. Although we do take account of applicable law, regulations and good industry practice, we also consider the evidence we've received from the parties, and the overall facts and circumstances of the complaint to arrive at what we think is a fair outcome for the particular situation.

I also note that Mr B has many grievances against P, but I don't think I can hold AGL responsible for what went on before it took over the debt.

Given the other different aspects to this complaint, I've considered them individually below.

assignment of debt

Under the Consumer Credit Act 1974, a "creditor" includes the person to whom the creditors rights and liabilities under the credit agreement have passed by assignment. I note that P's agreement terms allowed for its customers' accounts to be assigned. So when Mr B's

account was assigned to AGL, the rights and duties of the original creditor (here P) were passed to AGL. So, AGL has the right to collect the debt without the need for AGL and Mr B to enter into a new agreement.

notice of assignment

Mr B said that he didn't receive the notices of assignment from P to D, or D to AGL. It's correct that AGL should have provided Mr B with a notice of assignment. I've seen a copy of the notice of assignment AGL sent to Mr B on 20 January 2016. I note that the address it was sent to wasn't the address Mr B said he was living at, at the time. AGL said that the address it used was supplied by a credit reference agency. I also note from its agent's records that another previous address for Mr B had been provided. It appears to me that AGL hadn't been given Mr B's current address when it acquired the debt. So, I can't hold it responsible if the notice of assignment was sent to an incorrect address. I note there was an attempt to check Mr B's address, but the correct address for Mr B wasn't revealed.

I accept that Mr B didn't receive the notice of assignment which AGL sent to him in January 2016. But, Mr B was responsible for updating his address with his creditor under the terms of his credit agreement. I note that P had said that Mr B was aware of the assignment of the debt from P to D. He was told this in a phone conversation with P on 1 February 2012. So, I would have reasonably expected Mr B to tell D of any change of address which he doesn't appear to have done. And I note that he has moved several times since 2012. So, I don't think that AGL has done anything wrong here. I also note that as Mr B said that he didn't receive the original notice of assignment, that AGL sent a copy to him with its final response letter in January 2017. I think this was reasonable.

statute barred debt

Mr B argues that the account is statute barred. This refers to the time limits laid down by the Limitation Act 1980 which prevent a creditor taking legal action to recover a debt after a certain period. In English law, a debt can become statute barred after six years. A debt may not be time barred if certain events have occurred during that period.

A debt will normally be statute barred if:

- The creditor hasn't already obtained a county court judgment against the consumer;
- The consumer hasn't made a payment towards the debt in the previous six years; or
- The consumer hasn't written to the creditor admitting he owed the debt during the last six years.

I have no power to declare a debt statute barred, only a court can do that. But, I can see that AGL's agents wrote to Mr B in November 2016 to say that his last payment on the account was £1.70 on 16 November 2011. So, I don't think that AGL has acted unreasonably here in pursuing the debt.

AGL's communication with P

I asked the adjudicator to check with AGL whether it had spoken to P. AGL responded to say that P had provided account information when the debt was sold to show that the final payment to the account of £1.70 was made on 16 November 2011. I note Mr B's concerns

about AGL not complying with the Data Protection Act. Although I don't think that it was unreasonable for AGL to obtain information from P about Mr B's debt when AGL acquired it, I agree with the adjudicator that it would be more appropriate for Mr B to raise this with the ICO. Essentially the ICO is in a better position than us to make a legal finding on whether something complies with the Data Protection Act. We can decide whether we believe what's happened is fair and reasonable and that's what I've done here.

I appreciate Mr B's strength of feeling and recognise that he is unlikely to accept this decision. I can also see that Mr B has referred to numerous breaches of the law. Whilst I realise that Mr B takes a particular interpretation of the law, I am not persuaded that he is necessarily right. But, my role as an ombudsman is to consider the individual complaint and decide whether something has gone wrong. But a court may take a different view of the situation. Should Mr B not accept my final decision, then any rights he may have to take action in the courts against AGL are unaffected and he will be free to pursue his arguments in any court action that may arise, if he so wishes.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 May 2017.

Roslyn Rawson
ombudsman