

complaint

Mr L complains about a debt with American Express Services Europe Limited and is unhappy about the debt still showing on his credit file. He believes the debt is statute barred and it should therefore no longer be showing with the credit reference agencies.

background

Mr L had an account with American Express which had an outstanding balance. American Express did not collect the debt and after discussions between them it then agreed to cease collection activity and write off what was due. American Express accepted that the debt would likely be statute barred.

Mr L was not completely satisfied with this as American Express did not remove the account from his credit file. He argued that as he lives in Scotland statute barred debts are 'extinguished' after five years, rather than six years in England.

American Express would not remove the account from Mr L's credit file so the complaint was referred to us for consideration. An adjudicator reviewed the complaint and explained why he did not recommend the complaint be upheld. Mr L did not accept those conclusions, so the complaint has been passed 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 have not upheld this complaint.

American Express has now ceased all collection activity and written off what was due on the account. It accepts that the circumstances here could indicate the account would be statute barred under Scottish law.

I am aware of the differences between statute barred debts in England and Scotland and in particular that Scottish statute barred debts are 'extinguished' after five years. In England a debt becomes statute barred after six years but does not however then become 'extinguished'. The legislation, in England or Scotland, does not however specifically state that a debt should then be removed from a credit file after either five or six years.

The Information Commissioner's Office (ICO) states that it is generally good business practice for a default to remain on a consumer's credit file for six years. Mr L's credit file does still show the date the account defaulted and the defaulted balance at that time. I am satisfied that information is accurate, as the account did default then with that balance.

I have noted what Mr L has said about the account being written off and that the credit file should show the account as, at least, settled. However, the account has not been settled, it has simply been written off and will not be collected moving forward. Marking the account as being settled would therefore be, in my view, inaccurate as this is not what has taken place.

Having considered the specific circumstances of this complaint, which includes the relevant legislation and other industry guidance, I do not think American Express has acted unreasonably or unfairly. Mr L's credit file is not in my view inaccurate and there are no

grounds for me to instruct American Express to amend, or remove the account, from the credit file.

my final decision

Under the rules of the Financial Ombudsman Service, I am required to ask Mr L to accept or reject my decision before 8 June 2015.

Mark Hollands
ombudsman