

Factsheet on The Limitation Act and its application.

- The act was set up in 1980.
- It portrays the rulings over a creditor regarding the length of time in which they can attempt to retrieve a debt.
- The length of time applicable can vary depending on what the debt relates to.

Using the Limitation Act with unsecured credit debts:

- Unsecured credit debts are aspects such as credit cards, bank personal loans, store cards, finance company loans and catalogues.
- It is not uncommon for you to have a debt with an unsecured creditor that you did not know about or have not heard from in a long period of time.
- If you receive a letter from a creditor asking for you to pay the debt off, you may have the right to prevent the creditor taking you to court as the creditor may be statute barred.
- The creditor cannot take you to court if they have made no judgment against you yet.
- The creditor cannot take you to court if you or anyone else responsible for the money in question has not made a payment in the last six years.
- Furthermore if you have not communicated with the creditor in the last six years acknowledging that the debt is yours then they cannot take you to court.

How to make the creditors aware you are using the Limitation Act:

- You should write a letter telling them you are aware of the Limitation Act and will be disputing that any money is owed.
- If applicable you have the right to ask the creditor if they have any information on your account that they can show you.
- Even if you ask for this information, in no way does this mean you will be confirming the debt is owed.
- In the case that the creditor can prove you confirmed the debt was yours or someone made a payment on the account, the six-year period would run from that last payment or notice.

The Office of Fair Trading Guidelines

- They have laid out guidelines to say if a debt is being collected fairly or not.
- Debt may not be collected if you have heard nothing from the appropriate creditor in six years.
- In the case the creditor has been in constant communication with you for the last six years, which is then deemed fair for their collection of the debt.
- The OFT deem it to be unfair if the creditor still tells you the debt can be recovered legally when in fact it cannot be.
- Creditors will be seen as unfair if they still attempt to retrieve the debt even when you have informed them it is statute barred and you will therefore be making no payments.

Complaints:

- If any of the above take place you have the right to complain with the OFT or with your local trading standards department.

Complaining to the Financial Ombudsman Service

- Complaints can be made about a creditor if you believe them to be acting unfairly when dealing with your account.
- Initially you should follow the creditors individual complaints procedure.
- If you still feel you are being treated unjustly then you may complain to the FOS.

Does a CCJ affect my ability to use the Limitation Act?

- In the case that the creditor has already been to court and achieved a County Court Judgment against you, the Limitation Act becomes non useable.
- The years appropriate does not come into question, as the CCJ will still be attached to you.
- The creditor would still need to gain the courts permission to enforce the judgment if the judgment was passed over six years ago.
- In some cases the CCJ has been attached after a six year period has already passed and if this is the case then you can ask the court to withdraw the judgment so you can use the Limitation Act.

The Limitation Act with Council Tax

- If the Council Tax is outstanding for six years then the council should not appeal to the magistrates' court for a liability order.
- Depending on when the council sent a demand notice would depend on when the six-year limitation act would be begun.
- You may have grounds to complain if you believe the notice was sent out a long time after the rate was set.

The Limitation Act on a Community Charge

- If the Community Charge was due more than six years before the relevant liability hearing then the council should not appeal to the magistrates' court for a liability order.
- If the council does go to court for a liability order which is over six years old, the court will most likely give it to them.
- To prevent this, you must tell the court you are using the limitation act at the hearing.

The Limitation Act on Mortgage Shortfalls

- The time period relating to this debt is different from the ones above.
- If your creditor is looking to recover debt from a house that was repossessed or sold then they have 12 years in which to recover the moneys owed.

The Limitation Act on Income Tax and Vat

- The Limitation act does not apply in these circumstances.
- Any debts relating to Tax or Vat can be recovered at any time.

The Limitation Act on benefit overpayments and social fund loans

- There is a six-year period in which the Department for Work and Pensions can attempt to recover any debts through the court proceedings.
- The six-year duration begins for the social fund when the last balance was due to be paid.
- The DWP can make further deductions from your benefits for any debts that are over six years, as they do not need to follow a court proceeding to do this.
- The aspects this applies to is Income Support, Jobseekers Allowance, Pension Credit, Housing Benefit, Council Tax Benefit and paying back social fund loans.

Does the Limitation Act apply to Student Loans?

- Any outstanding debts relating to students have a period of six years from the last point of acknowledging the debt or the last payment made towards the debt.
- Two types of student debts, Old style and new style.

Old Style loans are consumer credit agreements.

- This means that under no circumstances can payments be taken from your salary.
- To retrieve any debts the Student Loans Company would have to go to court and enforce the debt.
- Therefore if a six-year period has passed with no payments or acknowledgment of the debt the Act would come into effect.

New Style loans are income contingent student loans.

- These loans lend themselves to income being taken from your salary or tax return to pay off the debts.
- Therefore the Student Loans Company can take payments directly from your salary for debts over six years.
- They do not have to go to court to do this.