

The complaint

Mr G complains that Cabot Credit Management Group Limited have failed to provide relevant documents or otherwise prove that the sums sought from him are correct and arose fairly. He feels it's unfair for Cabot to pursue the debts without that evidence.

What happened

Cabot bought five debts relating to some loans and credit cards Mr G had some years ago. After paying towards these debts for a few years, Mr G asked a law firm for help. They wrote to Cabot from January 2018 to January 2019 raising various points and asking for details about the debts. These requests referred to sections 77 to 79 of the Consumer Credit Act (CCA).

In response to these letters, Cabot were unable to provide certain documents, most notably the copies of the original credit agreements that led to four of the debts against Mr G. Cabot explained that these debts would therefore be unenforceable. For a fifth debt, Cabot provided a copy of the credit agreement, so they told Mr G that this debt would be enforceable.

Mr G wasn't happy with this result, so the complaint was brought to us. Our investigator felt Cabot had provided a reasonable service. But his findings talked about Cabot not collecting the unenforceable debts, which Cabot replied to say wasn't quite their position. They said they plan to start asking Mr G to pay the debts a month or so after our process ends. Mr G feels collecting the unenforceable debts is unfair, and he shouldn't be pursued any more.

As the investigator's findings have not resolved this matter, it has come to me for a final decision. I'll explain below why I find Cabot's service has been reasonable in this case.

What I've decided – and why

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

Mr G doesn't dispute that these are his debts, and I can see he's paid money towards them in previous years. As I'll go on to explain, I don't have the full details of these debts, but I've seen enough to be satisfied that these are, more likely than not, Mr G's debts.

Requests for information

Section 77 to 79 of the CCA gives people rights to ask their creditors or debt owners for information about a credit agreement. These sections also set out what should be given in response to a request, and what happens if that's not done.

From a service point of view, I'd expect Cabot to respond to reasonable requests for information. I'd also expect those responses to be accurate, particularly to explain how Mr G's debts would be affected by any relevant laws or codes of practice.

I can see that's what's happened here.

Cabot were able to fully respond to the CCA request for a debt arising from a loan with a specific lender, "N". I've seen the copy of the original loan agreement and the explanation that was sent to Mr G on 30 April 2018, and the annual statements sent to him every September.

Cabot said that meant the debt remained enforceable. I think that's a reasonable interpretation of what's written in the CCA. So I think it was reasonable for Cabot to reach that conclusion and explain it to Mr G.

For the remaining four debts, Cabot couldn't give Mr G a copy of the original credit agreements. They told him this openly and explained that made those debts unenforceable under the CCA. I can't see that information is disputed, and it seems accurate to me. So I find the response there was reasonable too.

Can an unenforceable debt be pursued?

A big part of this complaint seems to be based on the argument that an unenforceable debt can't reasonably be pursued. Mr G's law firm have mentioned guidance from the Office of Fair Trading, which I've taken some time to read. While they have highlighted paragraph 5.8 in that guidance, I think 5.7 has a more relevant point:

"If sections 77, 78 or 79 [of the CCA] cannot be complied with so the debt cannot be enforced in the courts, this does not mean that the debt disappears, and it is perfectly acceptable for a creditor to seek to pursue the debt."

Cabot's approach seems consistent with that guidance, so I find it's reasonable for them to continue to pursue the debts with Mr G. They made it clear to him that the debts are unenforceable and what that means for Mr G, which is what paragraph 5.8 then seems to say is needed.

Cabot's contact with Mr G

Mr G's raised points about being unsure whether the sums sought are correct. But I can see he's been sent annual statements every September for the debt with lender N, and twice-yearly for the other four accounts. I can see from those statements that Cabot hasn't added any fees or interest; the amount owed is simply what the debt was when they bought it from the original credit providers.

I consider this enough for Cabot to do, unless Mr G has some specific evidence to show something has been miscalculated. For example, if he can show he's actually paid more than is recorded in the statements.

I've taken a general look at the contact Cabot have had with Mr G over the years. Mr G has commented that he's had phone calls where Cabot said they hadn't heard from his law firm, when the law firm had actually written to them.

But I haven't seen any evidence to support that comment. What I have seen are letters from Cabot to Mr G and his law firm that responded to his requests for information, or updated him about the status of the accounts. The letters focused on setting up affordable payment plans, or offered reductions to the amount owed if it could be paid off sooner. Each letter included details for debt advice organisations, and how to complain if there was something Mr G wasn't happy with.

I don't see this as threatening contact. I see it as being consistent with the service being overall fair and reasonable.

As a final point, I can see comments in the complaints raised by Mr G about the credit being mis-sold, but I don't consider that an issue for Cabot to respond to. They didn't sell the credit to Mr G, and any complaint more rightly sits against the original lenders.

My final decision

I don't uphold Mr G's complaints about Cabot Credit Management Group Limited. No further action is needed from them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 12 June 2020.

Paul Mellor
Ombudsman