

The complaint

Mr R complains about the actions of Cabot Credit Management Group Limited trading as Cabot Financial (Europe) Limited (Cabot) when trying to recover two debts it acquired from another business.

What happened

Mr R had two credit card debts with a different business that were in default. In July 2017 Cabot was assigned the debts from the original lender. Cabot wrote to Mr R at the address it held on file with notices of assignment. Cabot contacted Mr R about the outstanding debts and asked him to make contact to discuss options to repay them.

In June 2018 Mr R asked Cabot to send him the relevant credit agreements for the credit cards. Cabot was unable to obtain the documents Mr R asked to see and confirmed the debts are unenforceable. But Cabot said it could still ask Mr R to make repayments.

Cabot later traced Mr R to an address and sent agents to visit him. Mr R says the agents caused embarrassment when they visited him and the Police had to be called. Cabot says the agents weren't there to collect the debt but try and arrange contact between it and Mr R.

Mr R's son has contacted Cabot and advised he holds Power of Attorney (POA) to act. But Cabot said no POA document had been shared and wasn't able to discuss the account with Mr R's son.

Mr R complained and Cabot responded on 18 October 2019. Cabot said it hadn't been provided a POA document so couldn't discuss the accounts with Mr R's son. Cabot confirmed that because it was unable to comply with the Consumer Credit Agreement request the debt is unenforceable but said it remained outstanding and collectable. Cabot said it had written to Mr R to try and engage and had taken the decision to send agents to his home. Cabot explained that it hadn't been made aware of any vulnerabilities Mr R had and didn't uphold the complaint.

Mr R referred the complaint to our service and it was passed to an investigator. He said Cabot had dealt with Mr R's complaint fairly and that it could still try to recover the outstanding balances. Mr R asked to appeal so his complaint has been passed to me to make a decision.

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 R has raised several concerns about Cabot's actions. I'm going to start by talking about Cabot's refusal to deal with Mr R's son. Cabot can only discuss private information with an authorised individual and it hasn't been sent a copy of a POA document that shows Mr R's son is entitled to act on his behalf. Without seeing the POA document, I wouldn't expect

Cabot to accept instructions from anyone except Mr R. I haven't found Cabot has made an error by continuing to correspond with Mr R instead of his son.

All parties agree that the debt is unenforceable because Cabot isn't able to comply with Mr R's Consumer Credit Agreement request. Cabot says that the debts remain collectable. I am sorry to disappoint Mr R but I agree with Cabot. Whilst Cabot may not be able to enforce the debts in court, there is nothing that says it can't continue to try and arrange a suitable repayment option with Mr R. I'm sorry to disappoint Mr R but I don't agree that Cabot is acting unfairly by asking him to repay the outstanding balances.

Mr R has told us he is vulnerable, has no assets and a limited income. I note Mr R didn't respond to our investigator's request for a more detailed picture of his circumstances, but I see no reason to doubt what he's told us. Where it's clear to a business there is no reasonable prospect of arranging an affordable repayment plan because of the consumer's circumstances I would expect it to consider whether it's reasonable to continue collection action. But here, Mr R hasn't engaged with Cabot and it doesn't have any picture of his finances or circumstances. Given Mr R hasn't given information to Cabot that will allow it to assess his circumstances and verify he is vulnerable, I think its continued attempts to recover the debts are reasonable.

Mr R says the agents sent by Cabot caused embarrassment at his residence and that the Police had to be called. But Cabot hadn't received any recent contact from Mr R. Cabot has explained the agents it sent weren't there to collect the debt but to try and arrange contact with Mr R by passing him a mobile phone. Had Mr R taken the phone, he would've been connected to a collections agent to discuss the debts. The industry regulations say a business can send agents to a consumer's home in relation to unpaid debts, so I'm unable to agree Cabot acted unfairly or broke the rules by taking that step.

I'm sorry to disappoint Mr R as I can see how strongly he feels in this matter, but I haven't been persuaded to uphold his complaint. I'm satisfied Cabot can still attempt recovery of the debts, even though they aren't enforceable. Cabot is allowed to send agents to contact consumers about debts. Whilst I understand Mr R may not be in a position to repay the outstanding balances, Cabot hasn't been given any evidence to show that. I think its continued contact with Mr R is reasonable. As I'm satisfied Cabot dealt with Mr R's complaint fairly, I'm not telling it to do anything else.

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 R to accept or reject my decision before 9 September 2020.

Marco Manente
Ombudsman