

The complaint

Mr B has complained about Cabot Credit Management Group Limited pursuing him for a debt which he says they should not pursue him for.

What happened

This complaint is about a defaulted credit card account which was sold to Cabot in late 2003.

Mr B says the account should be statute barred and so Cabot were harassing him. He pointed out it should have been included in a Debt Relief Order (DRO) in late 2015.

Cabot said the debt wasn't statute barred as Mr B's partner had made token payments until 2016. They said when he was applying for a DRO this account may not have shown up as it had fallen off his credit file by then.

Our investigator looked into things independently and upheld the complaint. They didn't think Cabot had harassed Mr B, but they did think the debt should have been included in Mr B's DRO. They noted Mr B was retired, had no assets, was caring for someone with mental health issues, and would not reasonably be able to repay the debt. They said Cabot should write it off.

Cabot didn't agree. They felt they hadn't had enough opportunity to consider the point about the DRO, even if they agreed this should probably have been included. They said writing a debt off was a last resort for them.

The complaint's been passed to me to decide.

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.

Having done that, I've come to the same conclusions as our investigator, and for much the same reasons.

Only a court can decide whether a debt is statute barred or not – I don't have the power to determine that. Though as our investigator noted, it has been fewer than six years since there were payments towards this account.

I've considered Cabot's communication with Mr B, but it doesn't look like they've been corresponding with him excessively or unreasonably. They were entitled to pursue him for this account, at least until the point where it should have been written off in the DRO.

In regard to the Debt Relief Order, I agree that this account should have been included – as Cabot now appear to accept, too. It was an eligible debt and would not have taken Mr B over the relevant debt threshold. And Cabot ought to have known about the DRO at the time, given it owned another of Mr B's accounts that was included in the order. Indeed, its internal systems for this account appear to even note Mr B's DRO.

Further, from what I can see of Mr B's circumstances, he is retired, is caring for someone with mental health issues, owns no significant savings or assets, and has very little disposable income. His circumstances are highly unlikely to change, and at the current rate it will take him several hundred years to pay off this debt.

I don't think it would be fair or reasonable for Mr B to have to go through a second DRO now just to include this debt – not least with the time, stress, fees, and credit file implications that involves. It would be much fairer for Cabot to simply treat this account as if it had been included in the prior DRO and write it off.

Cabot say they haven't had sufficient opportunity to consider this point. But I can see they discussed it with Mr B as part of the complaint correspondence as far back as January 2020. Our investigator also discussed this point with Cabot before their assessment, as part of the assessment, and after the assessment. Cabot also discussed this with another department, too. And Cabot had many further weeks to think about this issue before the case came to me. So I think they've had more than sufficient opportunity to consider this. Further, we have an inquisitorial remit and consider complaints holistically – and this point is fundamentally intertwined with this complaint, rather than a separate issue.

Putting things right

I direct Cabot Credit Management Group Limited to treat this account as if it had been included in the 2015 Debt Relief Order. That means writing off the debt and no longer pursuing Mr B for it.

My final decision

For the reasons I've explained, I uphold Mr B's complaint and direct Cabot Credit Management Group Limited to put things right in the way I set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 September 2021.

Adam Charles
Ombudsman