

The complaint

Mr A is unhappy with the actions of Cabot Credit Management Group Limited (“Cabot”) in pursuing him for a debt.

What happened

Mr A took out a loan in 2007. The loan was secured by a charge against his property in favour of the original lender. Mr A fell behind with the payments and the original lender defaulted the loan. It then sold the outstanding balance to Cabot, a debt purchaser, in June 2014.

Cabot appointed agents to act on its behalf in recovering the debt, including solicitors due to the debt being secured.

Around May 2016 Mr A raised concerns about the balance with Cabot and its agents. He said the original lender had added fees to the amount borrowed, which he hadn't noticed at the time. So, he felt the amount initially showing as owed was incorrect and that he might've in fact cleared the debt in full.

Cabot says it referred Mr A's concerns to the original lender. Mr A has said he received no further correspondence from any of the parties for some time so assumed he was correct, and that the debt was considered settled.

In late 2019, agents working for Cabot again contacted Mr A requesting repayment of the debt. Mr A raised a complaint with Cabot. He reiterated that he felt the original lender had incorrectly increased the level of borrowing. He also said that the lender had not reduced the interest rate even though the Bank of England base rate had reduced. He felt a combination of this meant he may already have repaid the debt claimed. Mr A also said he didn't feel Cabot should be pursuing him as he believed the debt could be statute barred. Mr A added that he had suffered health issues recently, so was finding the stress of dealing with this matter difficult.

Cabot said, as Mr A's complaint was largely about the administration of the account by the original lender, it was not responsible for these actions and could not comment. It did agree though to place collections activity on hold for sixty days, while Mr A pursued matters with the Financial Services Compensation Scheme (“FSCS”), as the original lender had ceased trading.

Unhappy with this response Mr A asked our service to consider his complaint. In summary Mr A raised four main areas he was unhappy with;

- The operation of the account by the original lender – that the amount of borrowing was increased without his knowledge when the loan was first opened and that the interest rate was not reduced in line with the Bank of England base rate.
- Whether the debt, being claimed in respect of the account, is statute barred.
- If it is fair that Cabot is pursuing the debt, given how much he has already repaid (Mr A estimated he'd already repaid roughly the amount he originally borrowed) and his concerns about the original lender's practices.
- How Cabot has dealt with him when pursuing repayment.

I issued a decision in July 2021 explaining that I thought we weren't able to consider the first point, the actions of the original lender, against Cabot. And I also felt we shouldn't consider the second complaint point, about whether the debt was statute barred, as that was a matter better dealt with by a court. So, I felt we could only look into the latter two areas of concern Mr A raised.

The investigator that originally handled the complaint previously explained that he didn't think Cabot was acting incorrectly by asking for the debt to be repaid. He did say he'd expect Cabot to review what was affordable to Mr A, and work constructively with him, moving forwards, on a repayment plan – which Cabot has indicated it intends to do.

Mr A has already indicated that he didn't agree with the investigator's opinion. As a result, I'll now consider the issues we are able to look into and make a final decision on the matter.

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.

There is no dispute that Mr A took out the original borrowing. I've seen a copy of the credit agreement with the original lender, confirming he was the borrower. The outstanding balance was sold to Cabot, and the credit agreement confirms that the existing lender had the discretion to take this action. So, I don't think Cabot has done anything wrong by contacting Mr A, through its agents, to discuss repayment. It purchased the debt in good faith, and he is the borrower under the agreement.

Mr A has said that he thinks he might've repaid close to the principal amount borrowed. But the original credit agreement also included interest due. And the information I've seen indicates that the amount due under the credit agreement, the principal sum plus interest, hadn't been repaid at the point the debt was sold. Again, Cabot purchased the debt in good faith. The information available to me indicates Cabot hasn't added any interest or charges to the debt since acquiring it. And the amount being pursued is the amount the original lender considered was still owed, less repayments Mr A has made since.

So overall, I don't think Cabot has acted unfairly by continuing to pursue Mr A for repayment of the debt or in terms of the amount it still considers to be outstanding.

Turning to how Cabot, and its agents, have acted, overall, I think it has acted reasonably.

I can see that Cabot, and its agents, notified Mr A that it had purchased the outstanding debt in July 2014, as I would expect it to have done. I've seen a copy of the letter notifying Mr A of this, which is addressed correctly.

I've seen evidence there was then some email correspondence between Cabot's agents and Mr A in late 2014 – indicating he did likely receive notification of Cabot taking ownership of the debt. These emails included a request for Mr A to provide income and expenditure details to determine what level of repayment was affordable. I can see he provided this in January 2015 and a repayment arrangement was agreed. I've seen evidence that payments were broadly maintained in line with this agreement until January 2016 and that the payments were applied to reduce the outstanding balance. Repayments then appear to have ceased.

Shortly after this, Cabot took the decision to ask different agents to administer the debt for it. And I've seen evidence that Cabot wrote to Mr A confirming this – and the letter was again addressed correctly. I think Cabot was entitled to make that choice and has acted reasonably by notifying Mr A of this. It was after these new agents contacted Mr A that he informed Cabot of his concerns about the balance.

There does appear to have been a breakdown in communication at that point, in 2016. The agents working for Cabot at that stage referred the concerns to Cabot and I've seen information to indicate they notified Mr A about this. Cabot then appears to have asked the original lender for some additional information. But this was not provided promptly. As a result no further action was taken to recover the balance for several years, and there doesn't appear to have been any significant updates provided to Mr A. Cabot and its agents then contacted Mr A again in 2019, shortly after he'd undergone a medical procedure – although he acknowledged in his complaint to our service that Cabot had no way of knowing this to be the case.

It is unfortunate that there was a period of a couple of years where no update was provided. And I can understand why Mr A was then frustrated with the pursuit of the debt beginning again. I do certainly think it would've been better if Cabot or its agents had kept him updated in the intervening period. But again, no charges or interest appear to have been added to the outstanding balance. So, Mr A hasn't been caused a financial loss as a result of this breakdown in communication. And, although I think its communication could've been better, I don't think this is enough for me to say that Cabot is no longer entitled to pursue Mr A for the outstanding balance.

After contact was re-established in 2019, Mr A again informed Cabot of his concerns about the actions of the original lender. Cabot correctly explained that it couldn't answer on the lenders behalf and suggested Mr A should speak to the FSCS, as the lender had since ceased trading. And it agreed to place matters on hold for two months while he did so. As I've said, I don't think Cabot was acting unreasonably when asking for the debt to be repaid. So, by providing this grace period I think it was acting reasonably. And again, no charges and interest appear to have been added to the balance during that time, or indeed at all since Cabot took ownership of the debt.

So, taking everything into account, I think Cabot has acted fairly in how it has pursued the outstanding debt.

Moving forward, I'd expect Cabot to engage with Mr A, discuss and take account of his specific circumstances and come to a mutually agreeable repayment plan. Cabot has confirmed that is its intention, after our investigation has concluded, which again I consider to be fair.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 1 September 2021.

Ben Stoker
Ombudsman