

## **The complaint**

Mr B has complained that Cabot Credit Management Group Limited are pursuing him for a debt which they cannot definitively prove he owes.

## **What happened**

This complaint is about an unsecured loan from 1997. It defaulted in 2000 and came under Cabot's ownership in 2017, having been looked after by their sister company from 2007. Cabot and the previous owner had regular payments and contact from Mr B over the years.

In late 2020, Mr B disputed the debt and asked Cabot to show it was his. But because of the time that had passed, Cabot and the original creditor no longer had the original documents.

Our investigator looked into things independently and didn't uphold the complaint. They explained that we couldn't decide whether the debt was enforceable or not, but could look at whether Cabot could ask Mr B for payments or not. They found that Mr B had previously set up a direct debit and had been regularly paying the debt, and had not disputed it in the many years before now. So they thought this was most likely his account.

Mr B didn't agree. He said there was someone else with the same name as him whose account it could be. He asked for his case to be looked at afresh, so 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.

I can understand why Mr B would like to check this account is really his. I can also understand if he no longer remembers it, given all the years that have passed and the fact that it's changed ownership. And I can understand his concern that the original documents are no longer available.

The thing is, this account is well over two decades old. So it's rather unsurprising that the original documents are no longer available. Indeed, under data protection rules the debt owner was required to dispose of data rather than hold onto it for too long. I've thought carefully about what's most likely to be the case here.

I should explain that I can't decide whether this debt is enforceable or not – only a court can decide that. I have considered whether Cabot can ask Mr B for payments or not.

I've gone through the remaining system notes, and I can see this account was registered to Mr B with his correct date of birth and address. It was also paid for using Mr B's genuine bank account. And I've not seen anything which indicates this account belonged to anyone other than Mr B, including the person with a similar name.

It looks like over the years, Mr B had a fair bit of contact with the debt's owner. He discussed his circumstances and what he could afford, set up payments, sorted out admin issues, made sure his direct debit went out, and so on.

I can't see any record of Mr B disputing the debt or querying it before late 2020. And he made regular payments over a considerable amount of time. It looks like Mr B recognised the account at the time and accepted it was his. If he hadn't recognised it, or if he suspected it was someone else's, I might have expected him to have raised this far earlier.

So on the balance of probabilities, I think this was most likely Mr B's account. And so I think it's fair for Cabot to ask him for payments.

I can see that Mr B asked Cabot to stop reporting this debt on his credit file. If it's of any consolation, this account is now far too old to still be showing on his credit file.

I hope I can reassure Mr B that it's quite normal for debts to be sold on like this, and Cabot still have a duty to treat him fairly. So his repayments should be based on what he can actually afford, and if he's in any difficulties then I'd expect Cabot to deal with such issues positively and sympathetically. Mr B may want to get back in touch with Cabot to see what assistance they can give him with repaying the account. I'll also send Mr B the details for charities who can give him free help and advice about dealing with debts. And Mr B can always get back in touch with us for a new case if he later feels that Cabot aren't taking his situation into account when working out how to repay the debt.

But as things stand, I don't think Cabot have done anything wrong here, and I think it's reasonable that they've asked Mr B to repay the money which it seems he owes them.

### **My final decision**

For the reasons I've explained, I don't uphold Mr B's complaint in this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 November 2021.

Adam Charles  
**Ombudsman**