

The complaint

Mrs S has complained about Cabot Credit Management Group Limited pursuing her for a debt which she says she doesn't owe.

What happened

This complaint surrounds a credit card account which was sold to Cabot. In 2017, a county court judgement (CCJ) was granted against Mrs S for this account.

Mrs S's representative explained that she was unaware of this account, and that it was opened and used by her now-deceased partner, who didn't tell her about it. They asked for the debt to be written off.

Our investigator explained that in granting a CCJ, a court had decided that Mrs S owed the money, and we couldn't overturn court decisions. They also explained it was the original creditor who were responsible for how the account was opened or any fraudulent spending. They explained how Mrs S could take her complaint to the court and the original lender.

Mrs S's representatives didn't agree. They felt that as Cabot now owned the account, the complaint should be against them. The matter 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.

Our service does not have a free hand to consider every complaint that's referred to us. There are rules setting out which complaints we can and cannot look at. These rules are set out in the handbook of the Financial Conduct Authority (or FCA for short), and are known as the Dispute Resolution Rules (or DISP for short).

DISP 2.3.1 says that we can only consider a complaint about a business if it's about the business carrying out certain types of activities. The relevant category for Mrs S's complaint is "regulated activities" – which includes debt collecting.

So normally, if a business is trying to collect a debt under a regulated credit agreement, that's usually a regulated activity, which would be something we could look at. But once a CCJ is granted, the original credit agreement falls away. And instead of the money being owed under a credit agreement, it's then owed under the CCJ instead. So in order to recover the money owed, the business is no longer collecting a debt under a credit agreement – it can only attempt to recover the money by enforcing the court judgement. And enforcing court judgements is *not* a regulated activity. So we can't consider complaints where the business are trying to enforce a CCJ, like what Cabot are doing here.

Further – and perhaps more importantly for this case – the Financial Ombudsman Service is only an informal alternative to the courts. We are generally unable to make decisions about issues that have already been dealt with in court. And we don't have the power to overturn or undo court decisions.

Here, as part of a CCJ, a court decided that Mrs S was responsible for this debt. And I do not have any power to overturn or undo that. I cannot set aside the CCJ or write off the account. So I can't help with the crux of Mrs S's complaint – I'm afraid it's simply outside the jurisdiction of our service. As our investigator explained, Mrs S's representative would need to contest the CCJ with the courts directly.

In regard to how the credit card was opened and spent on, that's not something that would be appropriate to look at against Cabot. I understand the representative's arguments about how Cabot own the debt now. But the key question is who actually carried out the activities in question – i.e. which business opened the account and allowed it to be spent on.

Here, Cabot did not open this account. And Cabot did not administer it when the spending took place. It was the original lender who opened the credit card, and it was the original lender who administered the card as it was being spent on. So any complaint about the card being opened or spent on fraudulently would be best directed to the original lender. It would not be appropriate to look at that against Cabot. As our investigator set out, Mrs S and her representative can of course ask for our help in any complaint against the original lender.

Lastly, in the limited scope of time where I can consider Cabot's actions, I've not found them to have done anything substantially wrong. Prior to the CCJ, they were pursuing a debt which they'd purchased in good faith.

My final decision

I don't uphold this complaint about Cabot Credit Management Group Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 25 April 2022.

Adam Charles
Ombudsman