

## **The complaint**

The estate of Mrs S complains Cabot Credit Management Group Limited did not treat Mrs S fairly when seeking repayment of debts they held in her name.

Mrs S' estate is represented by Mrs W.

## **What happened**

Mrs S had two accounts held by Cabot. She was using a Debt Management Company (DMC) to help manage her accounts.

The first account was acquired by Cabot in 2011. Mrs S agreed several payment plans during the life of this account and was making payments via her DMC. These payments however weren't credited to her account with Cabot.

The second account was acquired by Cabot in 2018. Attempts were made to contact Mrs S about this account and arrange a suitable repayment plan and eventually Cabot obtained a County Court Judgment (CCJ) for the debt on this account. They later obtained a Charging Order for the amount of the Judgment.

Mrs W complained, on the estate's behalf, that Cabot hadn't handled Mrs S' accounts correctly. Cabot responded to say they didn't think they'd done anything wrong.

An Investigator considered the complaint. She said, in summary, she thought Cabot had not made an error in trying to contact Mrs S about the accounts and that they didn't know about Mrs S' full circumstances until April 2020 – so they couldn't have taken this into account before then.

Mrs W didn't agree. She said:

- She remained unhappy Cabot had ever been in contact with Mrs S and had not acted appropriately in respect of her vulnerabilities.
- She was still concerned that payments that had gone astray and were only located after a number of years.
- Based on Mrs S bank statements, she wasn't sure the outstanding balance was correct on the first account. She also questioned to charges that were made to the account in September 2015.

As Mrs W didn't accept the Investigator's findings, the complaint was passed to me. I issued a provisional decision. I've set out my findings again below and they form part of this decision.

*What I've provisionally 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.*

*Firstly, I'm sorry for Mrs W's loss. It's clear that dealing with these complaints has come at an already stressful time.*

*I'm aware Mrs W also has concerns about the affordability of the original lending, but those concerns need to be directed to the original lenders.*

#### *The first account*

*When a customer owes money to a financial business, it's reasonable for them to contact the customer for repayments. If the customer is having financial difficulties, we'd expect the business to treat the customer fairly. And if the customer is using a DMC, we'd expect the financial business to talk to them about payments unless there's a reason they can't.*

*It's clear from the information Mrs W has provided, Mrs S suffered from a number of medical conditions and was vulnerable.*

*Cabot acquired this account in June 2011 and their records show they began contacting Mrs S by letter and telephone to set up a repayment plan. Because of the time that's passed, Cabot hasn't been able to provide a copy of the Notice of Assignment (NOA) for the first account. And I don't think that's unreasonable. But I can see from their records, a NOA was sent to Mrs S in June 2011 when Cabot originally acquired the debt. This means it'd legally bought the debt from the original lender. So, on balance, I'm satisfied Cabot had a legitimate reason to be in contact with Mrs S about it.*

*In February 2012, Cabot received contact from a Debt Management Company (DMC) on Mrs S' behalf offering a repayment plan which was accepted by Cabot in April 2012. Prior to this, Cabot had been receiving payments which were being forwarded by the original creditor. So – as Mrs W didn't tell Cabot she was using a DMC – I don't think it was unreasonable that Cabot initially tried to get in touch with Mrs W directly when it first took over the account.*

*In May 2012, a different DMC got in touch on Mrs S' behalf offering a repayment plan with a different payment amount. Cabot again began contacting Mrs S directly again after this to understand Mrs S' circumstances and check the new DMC were authorised to act on her behalf. Based on the notes, Mrs S didn't respond to any of the letters Cabot sent or answer any of the calls until September and October 2012. During these calls, Mrs S explained to Cabot that the DMC was acting on her behalf and had been sending payments to Cabot monthly. But Cabot's records didn't show these payments as being received. Neither party followed up on this, but both could have done more at this stage to solve the issue of the missing payments.*

*After this Cabot began contact with the DMC and accepted their repayment offer in December 2012. But no payments were received from the DMC.*

*In March 2013, as no payments had been received and there'd been no other contact from the DMC, Cabot wrote to Mrs S. Between then and February 2014, further attempts were made to contact Mrs S as the DMC still hadn't been in touch. Again, as Cabot hadn't been able to establish contact with the DMC I don't think it was unreasonable for them to again try getting in touch with Mrs S directly.*

*In February 2014, the DMC wrote to Cabot again with a different repayment offer. Cabot accepted this offer but again payments were not received. So, after trying to get in touch with the DMC to understand why the payments were not being received – they again resumed contact with Mrs S directly.*

*In May 2014, Cabot spoke to Mrs S by phone who confirmed she'd been making payments via the DMC for a number of years. So, she said she would get in touch with them and a temporary hold was placed on the account to allow her time to do that – which is what I'd expect.*

*Based on the records, it doesn't look like Mrs S came back to Cabot with any further information. So, they continued to try and contact her by letter and phone. At this point, letters explained that Cabot was considering obtaining a County Court Judgment for the debt.*

*In June 2015, the DMC – over a series of phone calls – explained to Cabot they had been making payments but using the wrong reference number so that's why Cabot had no record of payments being made for Mrs S' account. As a result, in July 2015, legal proceedings were stopped as payments had been located under the incorrect reference number.*

*I can see from the letters the DMC sent to Cabot that they had been using the wrong reference number in their correspondence for a number of years. As Cabot accepted multiple repayment offers and recorded them in the notes for Mrs S' account, it seems they were able to match up these repayment offers and Mrs S' account – in spite of the wrong reference number. So I think Cabot could've done more to have located Mrs S' missing payments, as it should've realised the DMC was using the wrong reference number and either corrected them or looked into whether it had received payments using the wrong reference number – especially since Mrs S had told them she had been making payments to the DMC. Had Cabot done so, I think it's likely the missing payments could've been resolved much sooner.*

*Mrs S repeatedly told Cabot she had been making payments to the DMC. And for the reasons I've explained, I think Cabot could have done more to locate these payments. I think Mrs S likely would have been worried that whenever she spoke to Cabot between 2012 and 2015 they said they hadn't received any payments from her. And while I acknowledge Mrs S could also have taken more steps to locate the payments, I intend to find Cabot should reduce the balance of Mrs S' account by £100 to reflect the fact they could have taken steps to resolve this issue sooner.*

*Mrs W is concerned that, because some payments went missing, the outstanding balance on Mrs S' account isn't correct.*

*Cabot have provided a copy of an email they received from the DMC in July 2015 setting out the payments they had made on Mrs S' behalf. I can see from the payment history that most of the corresponding number of payments were credited to Mrs S' account in September 2015. There was one payment of £7.94 that didn't look like it had been allocated to Mrs S' account but Cabot have agreed to add it now. So, Cabot has done what I'd expect by moving Mrs S' payments to the correct place.*

*Mrs W is also unhappy that there were charges applied to Mrs S' account in respect of the legal proceedings that Cabot eventually agreed to stop because the payments were located. We asked Cabot about these costs and they've now agreed to remove them from the balance of Mrs S' account. I think this is fair since the legal proceedings, it seems, were only started because of the payments Cabot believed Mrs S hadn't been making.*

*Mrs W is unhappy that Cabot ever made any attempt to contact Mrs S. She says this because Mrs S was making payments via a DMC. And so, Cabot should only have contacted them. But, it's clear from the records Cabot only began contacting Mrs S when they couldn't get a response from the DMC. It's unfortunate that the DMC often did not*

*respond to Cabot's attempts to contact them. But I don't think it was unreasonable for Cabot to contact Mrs S in these circumstances – it was Mrs S that owed the money, not the DMC. And as Mrs S didn't respond to most of Cabot's contact – they continued to try and get in touch with her.*

*Mrs W is also unhappy Cabot began legal proceedings against Mrs S. She said this had a significant impact on Mrs S at the time and coincided with the death of Mrs S' husband. I accept that it would've been very worrying for Mrs S to have received contact about the legal action and it's unfortunate that this came at an already difficult time for Mrs S. But I've seen nothing to suggest that Mrs S told Cabot about her difficult circumstances in 2015 so I don't think I can fairly say Cabot should've taken this into account, when they didn't know.*

*Mrs W is unhappy Cabot didn't treat Mrs S appropriately considering she was vulnerable because she was in poor health when dealing with her. I can see that Mrs S made Cabot aware she was unwell in April 2020. After this, Cabot put a hold on Mrs S' account for 60 days – which is what I'd expect it to do. Prior to this, it doesn't look like Mrs S had told Cabot about her full circumstances so again, I don't think I can fairly conclude Cabot should've done something different when they weren't aware of Mrs S' circumstances.*

*Overall, I'm satisfied Cabot's contact with Mrs S about this account is as I'd expect. But they should remove the legal fees from Mrs S' account, add the missing payment to her account and reduce the balance by a further £100 for the reasons I've explained above.*

#### *The second account*

*Cabot acquired this account in April 2018. Cabot has provided a copy of the NOA for this account. So, I'm satisfied Cabot had legally purchased this debt and had a legitimate reason to be in contact with Mrs S about it.*

*Cabot (and their solicitors) attempted to contact Mrs S a number of times by letter and telephone between April and August 2018 but received no response. Mrs S did respond to the claim form that was issued in September 2018 – to say she disputed the claim and required further information about the debt as she didn't know what the claim was about.*

*After this, Cabot's solicitors wrote to Mrs S a number of times about the claim but received no response. In July 2019, they wrote to Mrs S again, this time enclosing documentation relating to the claim and asked Mrs S to respond within 14 days otherwise proceedings would continue. As no response was received from Mrs S. A hearing date was set for February 2020 and the judgment was awarded to Cabot in March 2020.*

*Again, while I acknowledge Mrs S was vulnerable at this point – it doesn't look she made Cabot or their solicitors aware and as she did not respond to their attempts to contact her, they continued with the legal proceedings. As I've mentioned, it looks like Mrs S didn't tell Cabot the full extent of her circumstances until April 2020 – so after the judgment was obtained. So, I don't think I can fairly say they should've taken this into account particularly since they weren't aware of it at the time.*

*I'm satisfied Cabot handled this account and their contact with Mrs S as I'd expect.*

#### *Provisional Decision*

*For the reasons I've explained, I plan to partially uphold the estate of Mrs S' complaint. To resolve things, I intend to require Cabot Credit Management Group Limited to:*

- remove the legal fees – totalling £858 - from the balance of Mrs S' account.*

- *reduce the balance by £7.94 to reflect the payment that had not been added in 2015.*
- *reduce the balance by a further £100 in recognition of the distress and inconvenience caused.*

### **Responses to my provisional decision**

Mrs W replied. She said, in summary, she still felt Cabot hadn't acted appropriately in respect of Mrs S' vulnerabilities. In particular, she said:

- Cabot should have spotted signs of vulnerability because Mrs S was using a DMC and bearing in mind their customer base.
- Cabot had all the information they needed to locate the missing payments and didn't.
- When the legal proceedings on the second account were being taken, Mrs S was in hospital.

Cabot said they accepted my findings in part but did not think they were wholly responsible for the issue of the missing payments. They said they had nothing further for me to consider.

### **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.

Mrs W remains unhappy that Cabot didn't do more in relation to Mrs S' vulnerabilities. But Mrs W was also unhappy that Cabot made any attempt to contact Mrs S.

I explained in my provisional findings why I didn't think Cabot attempting to contact Mrs S was unreasonable on the occasions they had been unable to get a response from the DMC.

Cabot were aware Mrs S was using a DMC and she had mentioned being unwell in a phone call in 2012. So I think Cabot were on notice that Mrs S was potentially vulnerable. But, as Mrs S rarely responded to their contact, I'm not sure how Cabot could've established further details of Mrs S' circumstances in order to assess any vulnerabilities or opportunities to support her. And, on the occasions Mrs S did respond to Cabot's contact, it seems she didn't tell them about her circumstances. So, I don't think I can fairly say Cabot should've done more.

I agree with Mrs W Cabot could've done more to locate the missing payments. But, while I understand why Mrs S might have felt she didn't, or shouldn't have to, follow this up – she too was aware payments were not being received by Cabot and seemingly didn't attempt to chase this up herself. So I'm satisfied what I'm going to require Cabot to do fairly reflects the impact this had on Mrs S.

Finally, in relation to the second account Mrs W has explained in March 2020, prior to the judgment being obtained Mrs S was hospitalised and so wasn't able to engage with the process. I accept that was the case but Cabot weren't aware of this. Mrs S had not responded to any contact attempted by Cabot on this account since September 2018. So I still don't think it would be fair to say Cabot should've taken this into account when they weren't aware of it.

So I'm not persuaded to change the conclusions I reached in my provisional decision.

### **My final decision**

For the reasons I've explained, I uphold the estate of Mrs S's complaint.

To put things right, I require Cabot Credit Management Group Limited to:

- remove the legal fees – totalling £858 - from the balance of Mrs S' account.
- reduce the balance by £7.94 to reflect the payment that had not been added in 2015.
- reduce the balance by a further £100 in recognition of the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs S to accept or reject my decision before 26 August 2022.

Eleanor Rippengale  
**Ombudsman**