

The complaint

Mr M has complained about Cabot Credit Management Group Limited, saying they used a legal threat to get him to pay towards an unenforceable account.

What happened

Mr M had several debts with Cabot. This complaint surrounds a defaulted credit card account which was opened in 2005 and was sold to Cabot in 2011.

Mr M made repayments to Cabot between 2011 and 2020. In 2021, Cabot said they'd start legal action, but about a week later said they actually would *not* pursue legal action.

In 2022, after Cabot proposed sending a debt collector to visit Mr M's home, Mr M agreed to settle the debt with a repayment plan.

In 2023, Mr M asked Cabot for a copy of the credit agreement. Cabot couldn't provide it as it was too old, so they agreed the account was currently unenforceable in court.

Mr M complained. He says he only made payments because of the legal threat, but Cabot actually can't take legal action.

Our investigator looked into things independently and didn't uphold the complaint. Mr M didn't agree, 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 should first clarify that only a court can decide whether a debt is legally enforceable or not – I don't have the power to determine that. But even if an account is unenforceable, as Cabot and Mr M say this one is, the debt still exists, and Cabot are still allowed to appoint debt collectors and to ask Mr M to repay the debt.

I've thought carefully about Mr M's claim that he only made payments to Cabot because of the legal threat. However, he made payments to Cabot for about 9 years before the legal action was proposed, then his further payments started over a year after the legal action had been withdrawn. And Mr M didn't make any payments during the short period where legal action was actually being pursued. So I cannot fairly conclude that Mr M only made his payments because of this legal threat.

Indeed, from Mr M's contact with Cabot at the time, it looks like he set up his 2022 payment plan following an offer from his family to help him, and following the proposition of a visit from a debt collector, which he didn't want. To clarify, even if the debt was unenforceable, Cabot were still allowed to use debt collectors, and those debt collectors were still able to visit Mr M to ask him to repay the money he owes. Using those debt collectors was not a form of court action.

As I mentioned before, the debt being unenforceable would only mean that Cabot could not take certain legal action against Mr M. But the debt still exists. Mr M had the benefit of that credit card and owed money in return. So it was fair for him to make repayments towards the debt he owed. I cannot fairly or reasonably say that Cabot needs to refund him here.

My final decision

For the reasons I've explained, I don't uphold Mr M's complaint.

This final decision marks the end of our service's consideration of the matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 January 2024.

Adam Charles
Ombudsman