

## **The complaint**

Ms H complains the communication from Cabot Credit Management Group Limited trading as Cabot Financial (Europe) Limited is causing her significant distress.

## **What happened**

Ms H had a loan with a company I'll refer to as L. She's said during a particularly vulnerable period in her life, L granted her a loan for £10,000 which has caused her significant distress. During the loan term, L sold the account and Cabot were asked to collect the outstanding balance in 2018.

Ms H complained to us about L granting that loan, and we said L should try and repurchase it and, if it can't be repurchased, then the balance should be adjusted. Ms H doesn't want Cabot dealing with her account anymore as she thinks their contact is harassing in nature.

Cabot said they'd been contacting her for valid and legitimate reasons, as they'd not been able to discuss her financial circumstances or ability to repay the loan. They said they wanted to reassure her they had measures in place to prevent excessive contact and said over a six month period they'd tried to call her 38 times and sent eight letters. Because of the length of time with no reply, normally they'd commence legal action, but given what Ms H has told them of her circumstances, they've passed her account over to their Sensitive Support Team (SST). They were sorry for the upset Ms H had been caused but didn't think they'd done anything wrong. They also said L had instructed them to update the balance but hadn't contacted them about repurchasing the account.

Unhappy with their response Ms H asked us to look into things – also saying she'd not received a copy of the original credit agreement, Notice of Assignment (NOA), Default Notice or any signed documents. Ms H also said the loan was taken out online, and that she thought the debt was statute barred.

One of our Investigators provided copies of the credit agreement and NOA to Ms H – and ultimately didn't uphold her complaint.

Ms H didn't accept this, making a number of additional comments which I've summarised in my own words:

- The credit agreement isn't signed – and it must be signed by both parties to be enforceable
- There isn't enough evidence to suggest the NOA was properly served to her correct address
- There is a discrepancy in the amount outstanding owed
- Cabot have harassed her and she's quoted certain rules to evidence this
- The debt is statute barred under the Limitation Act 1980

Our Investigator shared with Ms H a transaction list and addressed her points in a further response – which Ms H still didn't agree with, 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 think it's important to explain I can't decide whether Cabot are acting in accordance with the law – I can only decide whether they've acted fairly and reasonably. This also means I can't decide if a debt is statute barred or not – as that's something only the court can decide.

#### *L buying the account back*

Our outcome in the case against L was to either buy the account back – or if that's not possible, ensure L adjust the balance with the current owner of the account.

This complaint only deals with Cabot's actions – but given L weren't required to buy back the account, I think this means it's reasonable for Cabot to retain responsibility of the account and continue to contact Ms H.

Whether L tried or not isn't something I know. And it isn't something I can hold Cabot responsible for even if L didn't. So, in the circumstances, I don't uphold this element of Ms H's complaint.

#### *Concerns with the credit agreement / NOA / debt is statute barred*

As I've mentioned above, I can't decide if the account is statute barred or not. Even if the account was statute barred, then Cabot are entitled to continue to contact Ms H for repayment of the debt, unless she explicitly tells them she's not going to pay anything. I haven't seen her do that, in part because she's not really engaged with them.

Cabot have said the last payment to the account was 15 January 2019, and they received an email from Ms H in March 2024 regarding the account balance which they say is an acknowledgement of the debt.

I don't have a copy of the March 2024 email, but I also don't think I need it. The reason I say that is because if Ms H were to dispute this was an acknowledgement of the debt, then I still couldn't decide this issue – only the court can.

So, while I have noted all of Ms H's concerns, I'm afraid this simply isn't something I can decide. I can say as Cabot don't think the debt is statute barred, and it isn't obviously unenforceable, then it's fair and reasonable for Cabot to ask her to repay the debt.

#### *Transactions*

Ms H was disputing the transactions, but after our Investigator provided a copy of the transaction list, she's not mentioned anything further.

Having reviewed the transaction list from Cabot, it seems to show the amounts Ms H was concerned about. So, in the circumstances, I'm satisfied the current amount owing is correct.

#### *Have Cabot harassed Ms H with their communications*

Ms H says the amount of contact from Cabot has really impacted her. And she's quoted rules from the Financial Conduct Authority's Consumer Credit Sourcebook (CONC). Specifically:

CONC 7.3.4 which says:

*A firm must treat customers in or approaching arrears or in default with forbearance and due consideration.*

And CONC 7.9.3 which says:

*1) An example of a misleading communication in CONC 7.9.2 R is a calling card left at the customer's address which states or implies that the customer has missed a delivery and encourages the customer to make contact.*

*[Note: paragraph 3.3d (box) of DCG]*

*(2) The clear fair and not misleading rule in CONC 3.3.1 R also applies to a firm in relation to a communication with a customer in relation to credit agreement or a consumer hire agreement.*

Cabot say they've tried to contact her 38 times on the phone, and eight times by letter, over a six-month period.

As a starting point I'm sorry to hear how the contact from Cabot has impacted Ms H's health. I completely accept dealing with these kinds of issues must be extremely difficult.

In respect of whether Cabot have harassed Ms H I can't say, as harassment is a legal offence, it's not something I can decide – but I can decide if I think Cabot have been excessive in their contact with her.

Thinking about the phone calls, 38 at face value does sound like a lot – but when split over a six-month period, or 26 weeks – it comes out to just over six calls a month, or around 1.5 calls a week. I think when placed in those terms, the contact doesn't sound particularly unreasonable to me. I'm conscious this debt could have a significant impact on Ms H's credit file, particularly as due to no contact from her Cabot were debating whether to enforce the matter in court. So, I'd say Cabot had a duty to make reasonable efforts to contact her.

I also don't think eight letters over a six-month period is unreasonable either – again when split out it's just over one letter a month.

While I can completely appreciate from Ms H's perspective the contact was entirely unwelcome as she expected L to take back the debt, they haven't. So, as Cabot remain responsible for repayment of it, I think it was reasonable for them to contact her and I don't think they've breached the CONC rules Ms H has quoted.

I have no power to compel Ms H to take any actions, but given L haven't taken back the debt, and Cabot aren't treating it as statute barred, then she may want to consider her options. This could include seeking legal advice as she's suggested she might at one point or this could include engaging with Cabot.

Cabot are required to ensure Ms H doesn't pay back more towards this debt than she can afford. So, if she does engage with Cabot, then she may be able to come to a payment arrangement which if she then keeps to would likely prevent much further contact from them. I mention this only as an option for Ms H to consider, given the impact she's said Cabot's contact has had on her so far.

## **My final decision**

For all the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 17 March 2025.

Jon Pearce  
**Ombudsman**