

complaint

Mr W complains that Cabot Credit Management Group Limited is asking him to pay a debt that he disputes and which he says is unenforceable. He's being helped with his complaint by a representative.

background

Cabot says that Mr W had a credit card debt of £1,084.58 that was assigned to it in August 2017 and it's seeking repayment of that debt. Mr W's representative complained to Cabot in June 2018 and said that it hadn't provided a copy of the credit agreement so the debt was unenforceable and that Mr W disputed the outstanding balance.

Cabot said that it was satisfied that it had dealt with Mr W's debt in accordance with the Consumer Credit Act 1974 but it agreed that it had contacted him incorrectly and apologised for that. Mr W wasn't satisfied with its response so complained to this service.

The investigator didn't recommend that this complaint should be upheld. He said that Cabot had provided account statements showing the debt that was transferred to it and he couldn't say that it had acted unfairly when it asked Mr W to repay the debt.

Mr W's representative – on his behalf - has asked for this complaint to be considered by an ombudsman. It has responded in detail and says, in summary, that:

- Mr W disputes the alleged debt sought by Cabot and doesn't accept that the sum outstanding was £1,263.97 when the credit agreement is said to have been assigned but considers that the payments he has made should now have been sufficient to settle the alleged debt in full;
- Cabot hasn't provided a copy of the credit agreement; and
- Cabot has directed phone calls and letters to Mr W which isn't acceptable in light of the correspondence that it has sent to Cabot.

Cabot says that this complaint is one that this service can't consider as it's in regard to whether the debt is enforceable, which only a court can determine.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We offer an informal dispute resolution service. We try to resolve complaints by customers about financial businesses by looking at what we consider to be fair and reasonable in the circumstances. Although we do take account of applicable law and regulations we also consider the overall situation. So it is possible that a court would reach a different outcome to the decision that we make on a complaint. It would be for a court to determine whether or not the agreement was enforceable so I haven't considered that in any detail. But I am able to consider whether or not Cabot has acted fairly and reasonably in its dealings with Mr W.

Cabot has provided statements from the credit card company for Mr W's credit card account for the period from April 2015 to April 2017. They show that Mr W was making monthly repayments of £28.03 (which then increased to £28.43 and then £28.48) to the account and that the outstanding balance of the account in April 2017 was £1,263.97. It has provided

evidence to show that Mr W's debt of £1,084.58 was assigned to it and that a notice of assignment was sent to Mr W in August 2017.

Mr W disputes the outstanding amount and says that the payments that he's made should have been enough to settle the debt. But I consider that Cabot has provided enough evidence to show that Mr W's debt of £1,084.58 was assigned to it and remains outstanding.

Cabot doesn't dispute that it hasn't been able to provide a copy of Mr W's credit agreement with the credit card company – and that would affect the action that it could take to enforce the debt. It says that requesting repayment of Mr W's account doesn't amount to enforcement action. Even though it doesn't have a copy of the signed credit agreement, I consider that it's fair and reasonable for Cabot to seek repayment of the debt from Mr W (to the extent that it's legally entitled to do so).

Cabot accepts that it contacted Mr W incorrectly. It's apologised for that and I'm not persuaded that there's enough evidence to show that Mr W has been caused significant distress or inconvenience by those phone calls and letters. So I don't consider that any compensation is justified in these circumstances.

Other than that, I'm not persuaded that there's enough evidence to show that Cabot has acted incorrectly in its dealings with Mr W. So I find that it wouldn't be fair or reasonable for me to require it to take any action in response to his complaint. But it's required to respond to any financial difficulties that Mr W is experiencing positively and sympathetically.

my final decision

For these reasons, my decision is that I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 25 April 2020.

Jarrold Hastings
ombudsman