

complaint

Mr W complains that Cabot Credit Management Group Limited registered information on his credit file which he thinks it was not entitled to do.

He asks that it stops putting “*default notices*” of his credit file, removes those that are there already and pay him reasonable compensation.

background

Mr W had a debt with a third party, “H” a plc. The debt was called in. He told us he didn’t pay the debt. He accepts that the debt is his debt.

The debt was sold on. Mr W suggested he’d not been told about this. So when he was contacted by someone saying he owed it money, it made him suspicious that perhaps this was a con. He questioned if the debt was enforceable. Further he asked if it was permissible for Cabot to register information about the debt on his credit file without telling him. And was it entitled to show the amount of the debt increasing over time.

Cabot said H registered a default on Mr W’s credit file in 2010. Its records show that H took all the required steps before it did so. It said that the information showing that the debt had been sold on had to be sent to Mr W at the time. But it sent another copy of that information, once Mr W came to us. It didn’t agree that the information that had been registered had been incorrect. But it also said the default information no longer shows on the credit file as more than six years have gone by since it was registered. It told us it has not reported on the debt in the last 12 months. Finally it confirmed that although Mr W still owes the debt it isn’t going to pursue him for it.

Our investigator didn’t recommend that the complaint be upheld. He didn’t agree that Cabot had done anything wrong or that it should pay compensation.

Cabot accepted this recommendation. Mr W didn’t. In brief, he thought we’d not really answered his questions. He wanted to know if Cabot could report in the way that it had on his credit file. And if it couldn’t did this mean it had acted in breach of statute or that the debt couldn’t be enforced.

Mr W asked that his complaint be reviewed again.

my findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. I’ve finished my review of Mr W’s complaint. I think I’ve no proper basis to ask Cabot to take any further action. Please let me explain why I’ve reached this conclusion.

Mr W and Cabot don’t always agree about what happened. Where’s that’s the case I have to decide which version of events is the most likely.

I’ve read and thought about the whole file, but I’ll concentrate my comments on what I think is relevant. If I don’t comment on any specific point it’s not because I’ve failed to take it on board and think about it but because I don’t think I need to comment on it in order to reach what I think is the right outcome.

was it wrong to register the default on Mr W's credit file in the first place?

There seems to be no disagreement that Mr W owed the debt to H and he didn't pay it. As a starting point, I think there is nothing wrong in Mr W's credit file reflecting this.

Before registering a default on a customer's credit file a lender has to let the borrower know this is going to happen. It seems Mr W is suggesting he didn't receive a copy of the letter from H telling him that it would register a default if he didn't pay it. But Cabot's records show the relevant notice was sent. I don't see why it is likely in the circumstances these records would be inaccurate. And nothing I've seen suggests that Mr W was intending to or was in the position to pay the debt at the time the default was registered.

For all of these reasons I think there was nothing wrong in the default being registered.

was it wrong to keep on registering information about the default and the debt for six years?

Mr W seems to think that even if the default was initially correctly registered, which he doesn't say it was, there was something wrong with how the debt and the default was registered after that on his credit file.

The relevant guidance makes it clear that any information registered has to be fair, accurate and up to date.

I think it's fair that the default was registered as I've said. Mr W had not paid his debt so the information was accurate. And the guidance says a default can remain on a credit file for up to six years so I think the information was up to date.

Further I've not seen anything that says debt owners have to tell customers before it register an update on a default.

Cabot tells us it is no longer registering information and hasn't done for twelve months. It also says that it will no longer ask Mr W to repay the debt. This is much further that I could have fairly and reasonably asked it to go. I say this because I see nothing wrong in it asking Mr W to pay when he had the benefit of the money and hadn't paid it back.

Mr W asks whether the debt is unenforceable or not? This is a question only a court can decide this service can't.

is it fair and reasonable that Mr W should get compensation?

Mr W hasn't shown that he did make any loss due to the information that was registered about the default and the debt.

Even if he had made a loss, it wouldn't be fair and reasonable to ask Cabot to compensate him for registering fair, accurate and up to date information.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 30 October 2017.

Joyce Gordon
ombudsman