

complaint

Mr H complains that Cabot Financial (Europe) Limited can't prove that he owes a debt it is chasing him to repay.

background

Mr H asked Cabot to provide proof of his debt in the form of credit agreements and proof that it legally owns the debt. Mr H was making repayments towards the debt but stopped because he isn't satisfied that the debt is properly owed to Cabot. Cabot wrongly told Mr H that it didn't have to provide credit agreements and has offered to reduce the debt by around £400 in recognition of the poor service. Cabot has said that it is legally entitled to pursue Mr H for the debt and there was, until recently, a history of repayment.

Our adjudicator thought the offer to reduce the outstanding balance was fair and reasonable in the circumstances. He thought that as Mr H had been paying the debt back it was reasonable to conclude that Mr H knew he owed the money. He didn't think Cabot should have to provide paperwork about the sale of the debt as that was commercially sensitive information. He explained that this service wouldn't decide whether the debt was legally enforceable and that would be a matter for the court. Mr H didn't agree and said in summary that he still hadn't had a copy of the credit agreement and the debt was unenforceable. He thought that Cabot was not acting properly.

my findings

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

As the adjudicator has explained to Mr H this service isn't able to decide whether a debt is legally enforceable. Only a court can do that. We can look at what is fair and reasonable in the circumstances and this might be different to what a court might decide.

Mr H accepts that he had a debt. I understand his concerns about the situation because the debt has been sold on and Mr H was making repayments through a debt management company. I can understand why he would like to be sure that he is properly informed about the debt.

Cabot has confirmed that it bought the debt and I have no reason to think that there was anything untoward about that. I am satisfied that Cabot is the owner of the debt and in the circumstances it is entitled to ask Mr H to pay it back. Mr H has been paying the debt back and hasn't raised a query until recently. In these circumstances I think it is reasonable to think that Mr H owes the money to Cabot.

I know that Mr H is concerned that he hasn't seen a copy of his original credit agreement or the paperwork relating to the sale as required by the law. Those things might affect whether the debt is enforceable but it doesn't change my view. I think that the offer made by Cabot to reduce the amount outstanding by £424.11 is fair and reasonable and reflects the delay caused by the inaccurate information given to Mr H when he complained. I don't think it is fair to ask Cabot to write off the outstanding debt because of this.

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 H to accept or reject my decision before 29 December 2015.

Emma Boothroyd
ombudsman