

complaint

Mr C complains that Cabot Credit Management Group Limited ("Cabot") sent him letters about three statute barred accounts in an attempt to deceive him into acknowledging them. He also says a fourth account should be considered statute barred.

background

In August 2018 Cabot transferred the management of Mr C's accounts to their sensitive support team. They sent letters to him about four accounts but Mr C says three of them were historic accounts that were statute barred. And he suggests Cabot were trying to deceive him into acknowledging the debts to make them enforceable.

He says the fourth debt, that I'll call debt H, is also unenforceable as the email Cabot say he sent to them in 2014 does not refer to the debt they are pursuing him for. He'd therefore like them to accept debt H is also statute barred and unenforceable and to close the account.

Cabot accepted that the first three accounts were statute barred and they closed them. But they didn't agree that debt H was statute barred. They referred to the emailed offer of settlement Mr C made to them about this account in September 2014 and said this was his written acknowledgement of the debt.

So Mr C referred his complaint to this service and our investigator provided her opinion. She noted that Cabot had sent letters to Mr C about the accounts when they transferred them to their "*sensitive support team*". She didn't think it would be fair for her to tell Cabot how to communicate with their customers and she thought they would want to tell customers about changes in the way debts were being managed. And, anyway, she noted that Cabot had accepted the accounts were statute barred and had now closed them. So she didn't think they needed to take any further action.

She went on to consider the email that had been sent by Mr C in September 2014. She noted that the reference number referred to in the email was one that related to debt H and that in a previous email Mr C had sent in April 2013 he'd used the same reference number and quoted the card number for debt H's account. So she thought this could reasonably be considered acknowledgement of the debt and she therefore didn't think Cabot were being unreasonable pursuing Mr C for payment.

Mr C didn't accept the investigator's view and he therefore asked for a final decision by an ombudsman.

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 know it will disappoint Mr C but I agree with the investigator's view of this complaint. Please let me explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered 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.

The appropriate forum to decide technical arguments as to whether a debt is statute barred is not the Financial Ombudsman Service, but a court. But, we can consider whether a business is being reasonable in pursuing a debt.

With regard to debt H I think Cabot are being reasonable. There is evidence that Mr C has acknowledged the debt as being his because he emailed them in 2013 and quoted the reference number relating to the debt and the correct card number. His settlement offer in 2014 used the same reference number so I'm satisfied that Cabot are being fair in pursuing him for a debt I think they can reasonably assume he's acknowledged.

The other three accounts have now been closed by Cabot and they've accepted they are statute barred. I understand Mr C's concerns that he may have been encouraged to respond to Cabot's letters about these accounts but I don't think there's evidence Cabot meant to deceive him. Their preparedness to close the accounts and accept they were statute barred appears to support this view. I think Cabot are entitled to contact customers to tell them about changes of management on their accounts and I don't think it's for this organisation to tell them how to communicate. So I won't be asking them to take any further action.

my final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 18 January 2020.

Phil McMahon
ombudsman