

## **complaint**

Miss M is unhappy with how Cabot Credit Management Group Limited went about collecting a debt on her account, and with the customer service it gave her in relation to that.

## **background**

In June 2016 Cabot bought Miss M's overdraft debt from her bank. It seems Cabot tried to contact Miss M but received no response. So in November 2016 it passed the matter to its solicitor, who reached a repayment agreement with Miss M. The solicitor was acting for Cabot, so to keep things simple I'll continue to refer only to Cabot.

In April 2017 Cabot and Miss M agreed a lower monthly repayment. Cabot says it didn't properly record this and tried to collect the previous amount, so Miss M cancelled the Direct Debit. Cabot says it addressed Miss M's complaint about this in May 2017.

Miss M last made a payment in April 2017, so in September 2017 Cabot wrote to her seeking repayment. It said it wanted to reach an agreement and asked her to provide details of her income and expenditure ("I&E") within two weeks. Cabot said until it had reviewed Miss M's I&E, any payment it accepted from her may not prevent Cabot taking legal action.

In May 2018 Miss M asked Cabot to put the collection of her debt on hold, which it agreed to do for 30 days. When that passed in June 2018, Cabot wrote to Miss M giving her one week to provide her I&E and a repayment proposal. Cabot's letter also said again that until it had reviewed Miss M's I&E, any payment it accepted from her may not prevent legal action.

Miss M called Cabot on 21 August 2018 to make an offer and set up repayments. Cabot said it firstly needed her I&E, and offered to take that over the phone. Miss M said she already had an I&E prepared and agreed to email it to Cabot within 14 days.

Cabot says it didn't receive this so on 5 September 2018 it wrote to Miss M to let her know that unless she sent her I&E and came to an agreement with Cabot within 30 days, it intended to get a court order telling her to pay the debt, known as a County Court Judgment ("CCJ"). Two days later Miss M began making monthly repayments at a much lower amount than she'd agreed with Cabot previously.

On 9 October 2018 Cabot issued court proceedings against Miss M, and a few days later she called Cabot about this. Cabot said while Miss M had made payments recently, she hadn't paid her agreed repayments since April 2017. And that Cabot needed her I&E before it could agree a repayment arrangement, but it hadn't received this. Cabot offered to take Miss M's I&E over the phone but she preferred to complete and return the court forms instead.

Cabot called Miss M back later that day to clarify an incorrect payment date it had given her in the earlier call. And in that call Miss M told Cabot about the upsetting personal circumstances she was going through - Cabot noted these and agreed to bear them in mind before taking action. And it explained that the payments Miss M had made didn't mean it couldn't take legal action. Miss M was unhappy but by the end of the call didn't want to take a complaint any further. Cabot says it opened and closed a complaint for Miss M, but didn't send her a final response letter as it should have.

Later in October 2019 Miss M asked Cabot for copies of the data it held for her, known as a subject access request (“SAR”).

Cabot says it received Miss M’s I&E on 25 October 2018, which showed her monthly expenditure was greater than her income. It says it called her about that soon after, but Miss M asked it to write to her instead. Cabot says it did so the same day, asking her to respond within two weeks.

Cabot says that when it received Miss M’s completed court forms in November 2018, it opened a complaint for her because her defence seemed to be an expression of dissatisfaction. It seems Miss M thought Cabot:

- was wrong to issue court proceedings
- hadn’t called her when it didn’t receive her I&E
- hadn’t treated her sympathetically
- gave her incorrect information about her the last payment she’d made then underhandedly closed her complaint
- hadn’t sent her the SAR information she’d asked
- incorrectly claimed she’d failed to make payments

Cabot says it updated Miss M about her SAR and sent her a statement of her account. Then in January 2019 Cabot sent Miss M its final response to her complaint.

In that response, Cabot said it hadn’t treated Miss M unsympathetically, and that it had correctly issued court proceedings because it hadn’t received an I&E from Miss M or reached an agreement with her. And that while it had made a mistake in not noting Miss M’s phone number on her file, it had still contacted her in writing. Cabot said it had mistakenly given Miss M an incorrect last payment date, but had quickly corrected that and apologised. And it said it hadn’t been underhand in closing her complaint.

Miss M disagreed so she brought her complaint to our service. She said she thought she’d done everything required of her by making payments and posting her I&E to Cabot. She said Cabot hadn’t treated her sympathetically or offered practical solutions. And she said she hadn’t received letters from Cabot.

At around this time Cabot offered Miss M a Tomlin order, under which Cabot would put court proceedings on hold as long as Miss M came to a repayment agreement with it and kept up the agreed repayments. However, Miss M said she didn’t want to accept a Tomlin order because she was concerned Cabot would apply for a CCJ straightaway if she missed one repayment.

After looking into Miss M’s complaint, our investigator thought Cabot hadn’t made any significant failings and that it had acted fairly in trying to come to an arrangement with Miss M. He explained that, under its offer of a Tomlin order, Cabot was willing to contact Miss M three times before taking any further action if Miss M missed a repayment.

Miss M didn’t agree so her complaint has been passed to me to make a decision. Cabot has agreed to put its legal action on hold until I issued my decision.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not upholding it. I realise this isn't the answer Miss M wanted, so I'll explain why.

But before I do, I'd like to give Miss M my condolences on her recent bereavement. And to acknowledge the difficulties she's been through in recent years, which must have caused her a great deal of worry and distress.

Miss M is unhappy Cabot issued court proceedings against her. She says she's done what Cabot asked of her, and it's not shown her empathy or offered practical solutions.

I think the letters Cabot sent to Miss M in September 2017 and May 2018 made clear she'd need to send her I&E before it could reach a repayment agreement with her. And I think it's reasonable for Cabot to ask for this information so it can check a repayment plan would be affordable for her. Miss M says she didn't receive these letters, which I'll return to later.

And Miss M says she posted her I&E to Cabot in August 2018. But I've seen nothing to suggest Cabot received Miss M's I&E before it says it did on 25 October 2018, over two weeks after court proceedings were issued.

From the statement of Miss M's account, Miss M didn't make any payments between May 2017 and August 2018. While she did start making repayments in September 2018, these were essentially nominal payments of an amount Miss M had herself decided on – they were not an amount agreed with Cabot based on her I&E. So while I appreciate Miss M made some payments, I don't think it was unreasonable for Cabot to conclude she hadn't kept up the agreed repayments.

I'd expect Cabot to treat Miss M positively and sympathetically, even before she told it about her difficulties in October 2018. So I've thought about what it has done.

Before issuing court proceedings, Cabot wrote to Miss M on several occasions asking to reach an agreement - it sent letters to this effect in September 2017, June 2018, August 2018 and September 2018. Miss M says she didn't receive these letters and was away from home at times. However, Cabot has provided copies of these letters and I've seen they were sent to Miss M's address. So while it's unfortunate Miss M may not have received them, I'm satisfied Cabot sent them and took reasonable steps to get in touch with her.

Cabot hasn't added interest to Miss M's account since at least December 2016 and the only charges it has added are its court costs, which I don't think is unreasonable in the circumstances. In May 2018 Cabot agreed to put Miss M's account on hold for 30 days to give her breathing space. And in the call in August 2018 it offered to take her I&E information over the phone. So I'm satisfied Cabot didn't act unfairly or unreasonably by issuing proceedings when it did.

Once Miss M made Cabot aware of her difficulties, it agreed to follow up calls by sending her a text message, and to be mindful of her circumstances before considering further action. And at around the time Miss M contacted our service, Cabot offered her a Tomlin order and agreed to put things on hold until I made my decision. Taking everything into account, I'm satisfied Cabot has treated Miss M positively and sympathetically.

Miss M is also unhappy about the customer service Cabot gave her, and I agree that it did make some mistakes. But I don't think these caused Miss M any detriment or to be in a position she wouldn't otherwise have been in. I'll explain why.

During the call in August 2018, Miss M gave Cabot her number and she's unhappy it didn't call her afterwards to let her know it hadn't received her I&E. Cabot accepts it didn't note Miss M's phone number but I can see it contacted her two weeks later, albeit in writing, to ask for her I&E. So Cabot did take reasonable steps to make Miss M aware it hadn't received her I&E.

Miss M says Cabot gave her incorrect information in a call in October 2018. I agree that it did, but it also called her back later the same day to apologise and provide the correct information.

And Miss M says Cabot dealt with the complaint she made in that call in an underhand way. From listening to the call it seems Miss M didn't want to take a complaint any further at that time and, while Cabot accepts it didn't send a final response letter as it should have done, it told Miss M in the call that she could refer things to our service, which she went on to do.

When Miss M brought her complaint to our service, she was unhappy Cabot hadn't provided the information she'd asked for in her SAR. It seems Miss M has now received this, so I won't consider or comment on that further.

### **my final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 9 September 2019.

Ailsa Wiltshire  
**ombudsman**