

## **complaint**

Mr U complains that Cabot Financial (Europe) Limited, ("CFL"), won't supply him with copies of credit agreements or any other documentation about the debts they are pursuing him for. The complaint is brought to this service by a member of Mr U's family, but for ease I shall refer below to all actions being taken by Mr U.

## **background**

Mr U had five credit accounts with four different credit providers. He'd applied for these accounts between August 2001 and May 2007. The original credit providers sold the accounts to CFL between January 2009 and April 2015. Mr U is unhappy that CFL is still pursuing him for money as he had asked it for copies of the credit agreements and other information about the accounts in June/July 2015 which hadn't been supplied. So, he said that CFL shouldn't be in a position to claim any money from him. Mr U is also unhappy that CFL has asked him for a £10 fee for his subject access request ("SAR"). He wants CFL punished and to stop harassing him.

The adjudicator concluded that CFL's offer to deduct £100 from each of the five accounts, because of its delay in providing the requested information, was reasonable. She noted that CFL had asked the original creditors for information about the credit agreements, and all but one, had supplied this. She appreciated that there had been a delay in this, but explained that businesses generally keep information for a maximum period of six years, so anything more than this may not be available or may be difficult to locate. She also noted that Mr U had made regular payments towards the accounts, as well as offers of settlement since CFL owned them. She also explained that it was standard practice for a business to charge a £10 fee for a SAR.

Mr U responded to say that he was unhappy that the adjudicator had seemed to suggest that he had made any payments. But he said that he had only done this due to a debt management company's bad advice and under duress.

The adjudicator asked Mr U for more information about his response. She also noted that the debts remained outstanding and there was currently no information to suggest that Mr U didn't owe the debts. She wanted to know what Mr U was expecting from CFL as he had said that he would like them to be punished. But she explained that as an independent and impartial service, our position wasn't to punish CFL as we weren't CFL's regulator.

Mr U hasn't responded to the adjudicator's request for more information.

## **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 note that CFL said that Mr U had made a SAR for all five credit accounts in June/July 2015 but as he hadn't paid the £10 fee, it hadn't supplied the requested information. I don't think this was unreasonable as a business doesn't have to comply with a SAR until it receives the fee. I also note that a SAR must be complied with within 40 days of the fee being received if this wasn't sent with the SAR itself.

I also note that CFL had said that Mr U had made a request under sections 77 to 79 of the Consumer Credit Act 1974 ("section 77 request") for copies of the credit agreement and statements in relation to only two of the credit accounts. CFL had told Mr U that there would be a delay in getting these. I can see that CFL now has the agreement and statements for both accounts although it hasn't yet sent copies of these to Mr U. CFL said that these had only been received since Mr U had complained to this service. I think that CFL should now provide copies of these two agreements and statements to Mr U. And notwithstanding that Mr U hasn't paid his fee for the SARs, I also think that CFL should now send Mr U copies of the other two agreements and statements in relation to his other accounts which CFL has received from Mr U's original creditors. I asked the adjudicator to ask CFL for its comments on this and it said it could send the documentation to Mr U as I proposed.

I note that Mr U is unhappy that he is being harassed by CFL. But the Financial Conduct Authority which regulates CFL says in its handbook that a credit agreement becomes unenforceable until a section 77 request has been complied with. But, this doesn't prevent a business taking steps with a view to enforcement including demanding payment, threatening legal action and bringing proceedings. Mr U hasn't supplied details of the harassment he is experiencing. But, if this consists of any of the matters I've referred to above, then these wouldn't be inappropriate.

I have seen copy agreements for four of the credit accounts and a statement for the other account. I have no reason to believe from having seen this information that Mr U didn't take out these accounts. I note that Mr U says that he had only made payments to CFL due to a debt management company's bad advice and under duress. But I have seen copies of CFL's payment records and I can see that Mr U made regular payments for over three years on two of the debts, for nearly two years on two of the debts and for over a year on the fifth debt. CFL said that Mr U hadn't disputed ownership of the debts during this time. It also said that Mr U made offers of settlement. Overall, I don't think that Mr U's actions show that he disputed the debts and I've seen no evidence that he was paying under duress or that his debt management company had acted inappropriately.

I can see that CFL, in recognition of the delay in providing the information to Mr U, has offered a £100 deduction from each of the five credit accounts. I think that this is reasonable in the circumstances.

I don't know if Mr U is in financial difficulties. But if he is, I would urge him to contact CFL to discuss this. I would remind CFL of its duty to treat cases of financial difficulty positively and sympathetically.

### **my final decision**

My decision is that I uphold this complaint in part. In full and final settlement, I order Cabot Financial (Europe) Limited to:

1. Deduct £100 from each of the five account balances it holds in Mr U's name;
2. Send copies to Mr U of the two agreements and statements for the two accounts referred to in Mr U's section 77 request; and
3. Send copies to Mr U of the other two agreements and statements in relation to Mr U's other three accounts which CFL has received from Mr U's original creditors.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 16 January 2017.

Roslyn Rawson  
**ombudsman**