

complaint

Mr F complains about accounts he had with Cabot Credit Management Group Limited (Cabot). He's unhappy about being asked to repay the accounts and that no proof has been provided confirming he actually owed anything. Mr F believes he's been bullied by Cabot into repaying the debts.

Mr F is represented in his complaint by his son. But for simplicity, I shall refer to all submissions made here by Mr F's son as if made by Mr F.

background

Cabot had three accounts it says were Mr F's and had been collecting repayments on those accounts. The accounts were originally with two different lenders but were assigned to Cabot in 2011. The accounts related to two credit cards and a bank loan. Repayments have been made on the accounts for a number of years but after Mr F's recent complaint Cabot has said it's now closed the accounts.

Mr F complained to Cabot in 2013 about the way the accounts were being handled and complained again more recently. Mr F has raised a number of concerns but believes he's been bullied into repaying the accounts. He's unhappy that Cabot has not provided the original credit agreements and believes he shouldn't have to have made the repayments. Mr F wants a refund of what he's paid, with interest, plus compensation and an apology.

Mr F complained to Cabot and unhappy with its response, he referred his complaint to our service. One of our investigators considered all that Cabot and Mr F had provided but didn't find there were grounds to uphold Mr F's complaint. Mr F remained unhappy with the investigator's conclusions and the complaint has therefore been referred to me for a final decision.

I've noted that Mr F is unhappy with the way our service has dealt with the complaint and those concerns have been dealt with separately outside this final decision. This decision will only deal with the merits of the complaint against Cabot and I will not be referring to any concerns Mr F may have about the way our service dealt with his complaint.

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 believe I will disappoint Mr F further as I do not consider this complaint should be upheld. I've come to the same overall conclusions as the investigator, for what are broadly the same reasons.

Mr F essentially believes he should not have had to make repayments to the debts and even though the accounts are now closed, would like all the money he's repaid returned. My role here is to decide if Cabot has acted fairly and reasonable in seeking repayment from Mr F and that of course includes whether the debts were Mr F's to repay.

Mr F is unhappy that Cabot has not provided copies of the original credit agreements and therefore conclusive proof they are actually his debts. The original accounts were taken out a number of years ago and in at least one occasion, more than 10 years ago. It's because of the age of the accounts and that they were assigned from the original creditor that Cabot says it cannot provide a copy of the original agreements.

I agree it would have been helpful if the original agreements could have been provided as they would have provided more information and I assume Mr F's signature on the bottom of each agreement. However, the absence of the original agreements doesn't, in isolation, mean that Cabot cannot seek repayment of the debts. I've looked at the other available evidence to decide whether or not, on balance, I think the debts are Mr F's. I appreciate Mr F wants absolute certainty but our rules allow us to consider complaints on the balance of probabilities. So where I consider something is more likely than not, and not necessarily unequivocal.

Cabot says that it acquired the debts from the original creditors in 2011 and it continued to collect payments on the accounts after then. Although Cabot has been unable to provide copies of all documents and letters, it has provided a number of documents that were sent to Mr F over the years before and after the accounts were assigned to Cabot. I can't be certain that Mr F received all of these letters but I think it's reasonable he received some or probably most of them. The address on letters was the same as Mr F's current address. Had Mr F believed these accounts were not his I think it reasonable to assume he would have questioned the letters he received.

Mr F had been making payments on the accounts and this was again before and after they were assigned to Cabot. I again think it's unlikely that Mr F would have been making payments to the accounts if he didn't accept the accounts were his. I've considered what Mr F has said about his current circumstances and I note his age and ill health. However, I don't think that demonstrates these accounts are not actually Mr F's.

One of the points raised in 2013/2014 was about the misale of a payment protection insurance (PPI) policy and Cabot referred Mr F back to the original creditor. Had Mr F believed that these accounts were not his I think it's unlikely he would have been looking to raise a complaint about the sale of PPI that (may have) accompanied the account. Another aspect of the 2013/2014 complaint appears to be around customer service and Cabot stopped collecting the £50 Mr F had been paying. This appears however to be because Mr F said he couldn't afford to pay the £50, rather than the complaint being that the debts were never his to repay. I can't see that the complaint at that time was that Mr F believed he'd been mistakenly asked to repay the debts that weren't his. This is something I would have expected to have seen from Mr F or his representative, suggesting there was no dispute at that time about Mr F being the original debtor.

Having carefully considered the circumstances of this complaint I think Cabot was entitled to seek repayment of the accounts from Mr F as it's more likely than not that they were accounts Mr F took out in the first instance. The absence of the original credit agreements does not mean that Cabot acted unfairly by collecting on the accounts.

Mr F has noted that Cabot has now closed the accounts after he complained but as our investigator has already explained, this is in no way an acceptance that these weren't Mr F's accounts or it should never have collected on the accounts in the first instance. It also doesn't mean that Cabot should now refund the payments Mr F has paid already even if it's no longer collecting the remaining amounts that were due.

Mr F has also suggested the age of the accounts could mean the debts are statute barred. It's for a court to decide whether a debt is actually statute barred I don't have to legal powers to declare the debt statute barred. However, a statute barred debt is where (amongst other

things) it's not been acknowledged for 6 years (5 years in Scotland). That's not the case here as Mr F has been making payments within the last six years on all three accounts.

Mr F believes he's been bullied into making payments but from the evidence I've seen here I don't accept that's the case. Mr F's complaint in 2013/2014 dealt with this issue too so I won't consider what went on before then. But looking at the contact since then I don't think it's been excessive or in anyway bullying. Cabot has acknowledged Mr F's circumstances and the contact has been somewhat limited. Cabot's records do show a number of attempted contacts with Mr F but most of these have been unsuccessful and it's been quite some time now since it did actually speak with Mr F.

I again appreciate that what I've set out here will be disappointing for Mr F and this is not the answer he'd hoped for. The fact that I've not upheld the complaint doesn't mean I haven't considered all of the evidence presented or considered it in a fair and impartial way. This final decision is the last stage in our process so we won't be able to consider this complaint any further. Should Mr F still wish to continue with his complaint he will need to do so through alternative means, such as the courts.

my final decision

My final decision is that I do not uphold Mr F's complaint against Cabot Credit Management Group Limited and there are no grounds for me to instruct Cabot to refund any of the repayments Mr F has previously repaid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 9 August 2018.

Mark Hollands
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