

complaint

Ms G is unhappy with the way Cabot Credit Management Group Limited (trading as Cabot Financial (Europe) Limited) has dealt with her in relation to old debts.

background

Ms G had three credit accounts with two different businesses and, after falling into financial difficulty, Cabot purchased the debt from the two credit providers. While Ms G doesn't dispute that she has these accounts, she doesn't agree she owes the amount Cabot are asking her to repay.

Ms G has complained that:

- Cabot won't give her a statement of account or other documentary evidence regarding the amount they are asking her to repay.
- Cabot is pursuing her for a debt that is unenforceable as it hasn't provided copies of her original credit agreements, statements and related documents so she thinks Cabot should write off or reduce her debts.
- The original decision to give her the credit in each instance was unfair as each time it was unaffordable and it was apparent she was likely to fall further into debt.
- Cabot has added charges to the debt, and has aggressively and unfairly pressured her into making payments.

Ms G is being represented in this complaint by a solicitor.

One of our investigators looked into Ms G's concerns. He found Cabot hadn't done anything wrong. He said that even though Cabot aren't able to provide Ms G with the documentation she's asking for, because the credit providers have this, this didn't mean that Ms G doesn't have to repay the debt. However, Cabot agreed the debt was unenforceable until it had supplied some of the documentation sought.

The investigator couldn't see that Cabot had added any charges to the debt, and there was nothing to show that Cabot had been aggressive in their communication with Ms G. He also said that only a court could decide whether a debt was legally enforceable and agreed with Cabot that, because they weren't responsible for the original lending, Ms G would need to complain to the original credit providers about any 'irresponsible lending'.

Cabot agreed with the investigator but Ms G's solicitors didn't. They say Ms G disputes that a debt is owed and feel Cabot's inability to provide documents and information about the alleged debt is stopping Ms G from resolving her debts, and is having an effect on her credit rating. They've said Cabot will probably never be able to demonstrate a sum is outstanding and so a fair outcome would be for Cabot to write off the alleged debt outstanding. They also believe Cabot is purchasing debts *"without doing sufficient due diligence to ensure they are properly due."*

As an agreement couldn't be reached, the complaint is now with me for a 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 agree with the investigator and for the same reasons.

It isn't the role of the Financial Ombudsman Service to decide on what policies financial businesses have in place when they purchase debt. This is a decision Cabot can make in line with its regulator – The Financial Conduct Authority. Because of this I won't comment on any due diligence.

Ms G has accepted that she had three credit accounts, with two providers, and she initially agreed that there's a balance outstanding on them, though her solicitors have now said this isn't true.

I've seen evidence that Cabot has bought this debt from the credit providers, and I've not seen anything to suggest that they can't ask Ms G to make payments towards this. But Cabot has said that the debt is currently unenforceable. However, they also say it doesn't mean they can't ask Ms G to make repayments. Ultimately, whether a debt is enforceable is not something I can comment on. As our investigator explained, it's for a court to decide if a debt is legally enforceable.

Ms G has said Cabot's actions are affecting her credit rating, but I haven't seen a copy of her credit file. Because of this, and as there are a number of factors that make up a credit rating, I can't say what impact, if any, this may have had.

Ms G has also said Cabot has aggressively and unfairly pressured her into making payments, and added charges to her account, but I've seen no evidence to support this.

I understand Ms G's frustration that Cabot can't provide her with the documentation she's asked for. This is because the original credit providers have this, and they haven't given it to Cabot. I can't expect Cabot to give Ms G something they don't have and can't get. If Ms G wants this, she might want to ask the original credit providers for it. The credit providers could also answer Ms G's concerns over the fairness of giving her the credit as this was their responsibility. Because of this, I won't be asking Cabot to do anything.

my final decision

For the reasons explained above I don't uphold Ms G's complaint about Cabot Credit Management Group Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 6 September 2019.

Jennifer Wood
ombudsman