

## **complaint**

Mr B complains that Cabot Credit Management Group Limited ("Cabot") did not treat him fairly, in that it wrongly obtained a court judgement against him and has since refused to discuss a settlement which responds positively and sympathetically to his financial hardship. He would like Cabot to clear his credit file, accept his settlement offer and pay him compensation for the distress and inconvenience its errors have caused him.

## **background**

In late 2011, Mr B took out a loan from a third party lender. The last payment towards the loan was made in late 2013, and in January 2014, the lender assigned the debt to Cabot. Cabot wrote to Mr B in mid-February to tell him it had taken over the debt, using the address details provided by the third party. There were no further payments towards the debt, and in early April 2014, Cabot sent Mr B a Notice of Arrears and then a Notice of Default in mid-May 2014.

Cabot says it did not hear from Mr B, and did not receive any payments, so the account was defaulted in mid-June 2014, and this was recorded on Mr B's credit file. In late 2014, Cabot assigned the account to a solicitors' firm. It says it attempted to contact Mr B, but receiving no response, made an application for judgement. Judgement was issued in January 2015. Mr B says he learnt of this when he later checked his credit file, and considers that the judgement was improperly issued, as the solicitors and Cabot did not make reasonable efforts to locate him, as he says they were required to do.

Mr B complained to Cabot, and offered to pay £350 to settle the debt in full. He considers this has been unreasonably rejected by Cabot, who have insisted on full payment of the outstanding debt of £1,190. He considers this is not a positive and sympathetic response to his financial hardship.

Our investigator did not recommend that this complaint should be upheld. He considered that Cabot had reasonably relied on the contact information provided to it, which appeared to be correct until at least June 2014. He considered that Cabot had made reasonable efforts to contact Mr B regarding the debt, and that as Mr B was aware he owed the debt, it was reasonable to expect he would have updated his contact details when he moved. He also considered that Cabot is not required to accept a settlement offer, even in light of Mr B's financial difficulties. He noted that even if Mr B had contacted Cabot and agreed a repayment arrangement, this would not have necessarily prevented judgement being entered against him.

Mr B does not agree, saying Cabot did not treat him fairly when it applied for the judgement, as it is required to do under law.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr B has raised several issues in his complaint, and I've addressed these in turn, below.

*whether Cabot made reasonable efforts to contact Mr B.*

Mr B says Cabot did not make reasonable efforts to locate him before it applied for judgement. He says it is required to this under law, and its failure to do so means the judgement should be set aside. Mr B knows I'm not able to order the judgement to be set aside. I can look at whether Cabot made reasonable effort to locate Mr B, and consider an appropriate remedy if I believe Cabot made an error.

Mr B stopped making payments towards the debt in October 2013. After Cabot took over the debt in January 2014, it wrote to Mr B on several occasions, using the address which the third party lender had given it. It appears that this address was correct until at least June 2014. Cabot has provided evidence that it sent the Notice of Assignment, Notice of Arrears and Notice of Default to this address while Mr B was still living there. It has also provided call records showing it attempts to call Mr B on numerous occasions while he was still at that address.

It's not clear why Mr B didn't respond to these attempted contacts, but I can't say that Cabot didn't try to get in touch to discuss the debt or that it didn't try to make Mr B aware that he needed to clear the arrears to avoid a default being applied. I also consider this means that Mr B was most likely aware that he owed the debt at the time he moved. It's therefore reasonable to expect him to have updated his contact details.

Mr B feels very strongly that Cabot did not make reasonable efforts to find him at his new address before it sought judgement. But it isn't clear why Cabot would have assumed that Mr B had moved. Mr B didn't respond to calls or letters from Cabot when he was living at the address Cabot was using. That Cabot didn't receive answers to calls or letters after June 2014 wouldn't have suggested Mr B had moved, just that he was continuing to not respond to them. Cabot would reasonably have seen this as a continuation of the previous behaviour.

It isn't clear why Cabot should have known that Mr B switched from not answering because he didn't want to discuss the debt, to not answering because he wasn't there anymore. Also, Cabot has said it didn't receive any returned mail indicating that Mr B had moved, but that if it had done, it would not have sought judgement. In the circumstances, I consider Cabot took reasonable steps to locate and contact Mr B.

*whether Cabot has responded positively and sympathetically to Mr B's financial hardship*

Mr B has said it was unreasonable for Cabot to reject his offer of £350 to settle the debt in full and that this failed to take account of his financial hardship. Lenders are expected to respond positively and sympathetically to a borrower's financial hardship. But this doesn't have to take a prescribed form. Cabot isn't required to accept that offer, though I would expect it to take Mr B's circumstances into account when discussing repayment of the debt to ensure any arrangement is sustainable and doesn't exacerbate his difficulties.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 7 July 2017.

Catherine Wolthuizen  
**ombudsman**