

complaint

Mr W is disputing the sum that Cabot Credit Management Group Limited, trading as Cabot Financial (Europe) Limited, are asking him to repay. He has complained that Cabot hasn't shown him proof of the amount owing.

background

Mr W had a credit card and, after falling into financial difficulty, Cabot purchased the debt from the credit card provider. While Mr W doesn't dispute that he has an outstanding balance on the credit card, he doesn't agree that it's the amount Cabot are asking him for.

Mr W has complained that:

- Cabot won't give him documentary evidence of the amount they are asking for, and he believes they may be chasing him for a debt that isn't payable which makes the debt unenforceable.
- The decision to give him a credit card was unfair as it was unaffordable and it was apparent he was likely to fall further into debt.
- Cabot have added charges to the debt, and have aggressively and unfairly pressured him into making payments.

Mr W is being represented in this complaint by a solicitor.

Our adjudicator found Cabot hadn't done anything wrong. She felt they'd shown they'd purchased Mr W's debt from the credit card provider, sent him a Notice of Assignment to let him know this, and were asking him to repay the amount he owed the credit card company. While Cabot aren't able to provide Mr W with the documentation he's asking for, because the credit card provider has this, the adjudicator felt this didn't mean that Mr W doesn't have to repay the debt.

The adjudicator 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 Mr W. She 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 credit card sale, Mr W would need to complain to the credit card provider about any 'irresponsible lending'.

Cabot agreed with the adjudicator but Mr W's solicitors didn't. They feel Cabot's *"inability to provide documents and information in relation to the alleged debt"* is stopping Mr W from resolving his debts, and is having an effect on his credit rating. They also believe Cabot is purchasing debts *"without doing sufficient due diligence to ensure they are properly due."*

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 W has accepted that he had a credit card, and that there's a balance outstanding. I've seen the amount Cabot is asking Mr W for is the same amount the credit card provider said was owed. 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.

Cabot have said that the debt is currently unenforceable, which means they can't take Mr W to court. But they also say it doesn't mean they can't ask Mr W to make repayments. It's for a court to decide if a debt is legally enforceable. I've seen evidence that Cabot has bought this debt from the credit card provider, and I've not seen anything to suggest that they can't ask Mr W to make payments towards this.

Mr W has said Cabot's actions are affecting his credit rating, but I haven't seen a copy of his 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 this may have had.

I understand Mr W's frustration that Cabot can't provide him with the documentation he's asked for. This is because the credit card provider has this, and hasn't given it to Cabot. I can't expect Cabot to give Mr W something they don't have and can't get. If Mr W wants this, he might want to ask the credit card provider for it. The credit card provider could also answer Mr W's concerns over the fairness of giving him the credit card 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 Mr W's complaint about Cabot Credit Management Group Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 27 July 2019.

Andrew Burford
Ombudsman