

complaint

Mr E complains that Cabot Credit Management Group Limited didn't deal correctly with a debt it bought from another business.

background

Mr E had a credit card account with a business I will call N. This was opened in February 2017 and closed in December 2017. Cabot says that Mr E had failed to pay the minimum monthly payments. Cabot bought the debt of £635.89 as part of a package and sent him a Notice of Assignment on 17 January 2018.

On 20 January Mr E wrote to Cabot and in his 31 page letter he asked the business not to contact him by phone, letter or text and suggested it write-off the debt. He explained he had been made redundant and had no money available to pay Cabot. However, he did refer to a token offer of 10p per month which he would pay in such a way as to cause Cabot to incur additional costs.

He also asked for a copy of his original signed agreement with N and for collection activity to be suspended until his request was met. He also said Cabot's collection activities were illegal as N hadn't told him it had sold his debt. However, he acknowledged that Cabot was within its rights to continue with the collection of his debt, but he hoped it would empathise with his situation. The letter was headed 'official complaint'.

Cabot responded with a final response letter on 28 February. It also asked him some security questions as he asked that emails be sent to a new email address. Mr E responded and made several complaints. He said that Cabot had not met the eight week deadline when dealing with his original complaint, that it failed to respond to his subject access request (SAR) and it had added a sum of £12 to his debt. He also said the matter had been referred to this service and mentioned the fee Cabot might incur as a result.

Cabot responded and asked that he write in plain English so that it could more easily understand his concerns. It disputed it had not met the eight week deadline and said it had not received a SAR. His request for a copy of the original agreement had been made under the Consumer Credit Act 1974 and that this was being processed. It disputed any failures.

His request for a copy of the agreement was acknowledged on 19 March and Cabot has accepted there was a delay in sending this to him but I gather this has since been done.

Mr E brought his complaint to this service. Specifically he said that Cabot:

- had yet to provide him with a copy of his signed credit agreement with N,
- had not supplied him with all his personal data as he had requested,
- had breached Section 82A CCA 74 by not supplying an assignment letter,
- refused to send him copies of all his statements from N so he could verify the debt,
- had failed to respond with the eight week time limit,
- Had sought to collect an additional £12 which wasn't due.

The complaint was considered by one of our investigators who sought clarification from Mr E, but he took offence at this request and believed he was being called a fraud.

The investigator issued his opinion, in which he said he was satisfied that Cabot had responded within eight weeks. He also explained that any issues relating to delays in supplying information was outside our remit and he referred Mr E to the Information Commissioner's Office.

He went on to say that he was satisfied that the debt was sold by N to Cabot and this was evidenced by the letter sent him on 16 January 2018. As such he considered Cabot to be the legitimate owner of the debt.

As for the additional £12, he said this was an 'over limit fee' Mr E was charged as the account went over the £600 limit. He attached a copy of the credit card agreement with N for Mr E's benefit, which showed it was a legitimate charge.

Mr E didn't agree and complained about the investigation of his complaint. He submitted a wide ranging and lengthy response which I won't repeat in any detail. The points he raised include the following. He said Cabot had lied and misled this service and he raised a number of questions about the matter. He also said he hadn't received a copy of his agreement from Cabot. He added that N had changed the terms and conditions on 17 August 2017 so the copy he had received wasn't the true one. He also said the £12 over limit fees were unlawful and referred to a number of legal decisions on the matter.

my findings

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

Firstly I should make it clear that the role of the Financial Ombudsman Service is to resolve individual complaints and to award redress where appropriate. I do not perform the role of the industry regulator and I do not have the power to make rules for financial businesses, or the power to punish them.

I have read the detailed and lengthy legal arguments Mr E has submitted, but I trust he will appreciate that my remit is not to make findings on legal matters. This service is an informal independent dispute resolution service and I have to consider what is fair and reasonable for all parties. To that end my decision addresses only those matters which I consider to be key to Mr E's complaint, and which are within our services' remit.

In his original complaint letter to Cabot Mr E acknowledged that it was "...*within your rights to continue with the collection of my debt...*". I think this demonstrates that Mr E accepts he used his credit card and ran up a debt. I have also seen the statements issued by N to Mr E which set out his spending and the payments he made.

However, he now believes that N and/or Cabot have failed to follow due process and so legally he need not pay the debt. I am not so persuaded, but if Mr E wishes to pursue this particular argument, it would be one more suited to the courts.

I have seen the agreement he entered into with N and I have no reason to doubt its validity. While Mr E may seek to avoid his liability by challenging it, I don't believe there are grounds that would allow me to disregard it in reaching a fair and reasonable conclusion to this complaint.

It was open to N to sell the debt and I have seen nothing to suggest that it did anything wrong in doing so. Once the debt was acquired by Cabot it notified Mr E and again I have seen nothing to demonstrate that its handling of the account was incorrect. I am satisfied that it sought to work with Mr E to agree a sustainable repayment plan.

In its final response letter it said: *"We do not apply any interest or charges to any of our accounts, and have not stated that we would visit you at your address. At no time have we referred to bailiffs or any legal action and, at present, it is not our intention do this."* Overall I consider the business has been seeking to deal with Mr E positively and sympathetically in helping him resolve his financial difficulties.

The statements include several over limit charges of £12 which Mr E feels are unreasonable. However, it is generally accepted that the £12 fee represents the cost to business of the extra work it needs to carry out on these accounts. As such I don't consider these charges to be unacceptable.

As for the alleged failure to respond to the SAR, this is matter for the Information Commissioner's Office and not this service. I would add that I see no issue with the time taken by the business to respond to Mr E.

my final decision

On the basis that I haven't seen that Cabot Credit Management Group Limited has made any mistakes, or treated Mr E poorly, my final decision is that I do not uphold this complaint. Cabot Credit Management Group Limited should continue to work with Mr E positively and sympathetically in finding a way forward that his debt can be repaid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 22 December 2018.

Ivor Graham
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