

complaint

Miss F complains about the way that Cabot Financial (Europe) Limited has dealt with her debt.

background

Miss F had a debt to a third party which was assigned to Cabot in June 2015. It obtained a judgment in default against Miss F. She complained to Cabot in November 2016 about the judgment. She said that: it hadn't responded to her request for information under the Consumer Credit Act 1974; the debt was statute barred (so unenforceable); and that it had made five trace enquiries on the same day in June 2015 which would have a negative effect on her credit file. Miss F wasn't satisfied with Cabot's response so complained to this service.

The adjudicator didn't recommend that this complaint should be upheld. She was unable to say that Cabot had failed to comply with the provisions of the Consumer Credit Act because it didn't receive a request with the appropriate fee from Miss F – and she said that Cabot would've been entitled to continue with the court action even if the request had been received and the fee paid. She also said that a court had considered whether or not Miss F was liable to pay the debt and had issued a judgment requiring her to make repayments – so the court had decided that the debt wasn't statute barred. She said that it was unclear why Cabot had made five trace enquiries on Miss F's credit file – but they wouldn't damage her credit file. So she concluded Cabot shouldn't pay any compensation to Miss F.

Miss F has asked for her complaint to be considered by an ombudsman. She says, amongst other things, that:

- she's still awaiting a reply from Cabot to her Consumer Credit Act request for information;
- she's not been shown proof that her debt isn't statute barred; and
- she was too upset to be able to defend herself at court.

my findings

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

Cabot has provided evidence to show that Miss F owed a debt to a third party. The last repayment to that debt was made by Miss F at the end of April 2010. Cabot sent a notice of assignment of the debt to Miss F in July 2015 and it obtained a judgment against Miss F in March 2016 – less than six years after her last repayment. So I'm not persuaded that there's enough evidence to show that the debt is statute barred – and a court has issued a judgment against Miss F. Cabot says that Miss F applied to have the judgment set aside - but that application was dismissed by the court (which added the costs to the judgment debt). This service wouldn't normally interfere with a judgment issued by a court.

The adjudicator sent to Miss F a copy of her credit agreement with the third party, copies of the statements that were sent to her by the third party and a copy of the notice of assignment. But I'm not persuaded that there's enough evidence to show that Miss F properly requested those documents from Cabot and paid it the appropriate fee. So I'm not persuaded that Cabot has acted incorrectly.

Cabot hasn't been able to explain why it made five trace enquires against Miss F on the same day. But it says that those enquiries won't negatively affect her credit file. And I'm not persuaded that there's enough evidence to show that the enquiries have had an adverse impact on Miss F.

For these reasons I find that it wouldn't be fair or reasonable for me to require Cabot to pay any compensation to Miss F – or to take any other action in response to her complaint.

my final decision

So my decision is that I don't uphold Miss F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 30 June 2017.

Jarrold Hastings
ombudsman