

The complaint

Mr T says Clydesdale Financial Services Limited, trading as Barclays Partner Finance ("BPF"), offered to clear his debt with them but are now pursuing him for that debt. He'd like them to write it off because he says his health has deteriorated and he has no way of ever paying.

Mr T has been supported and represented by a debt charity throughout this complaint. For simplicity I will refer to Mr T in this decision.

What happened

I issued my provisional decision on this complaint in December 2020. An extract from that decision is set out below.

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my decision.

What I've provisionally decided – and why

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

I agree with what the investigator said about the treatment of the debt. But I don't think he was clear elsewhere in his view.

Whilst he said he wasn't asking BPF to take any action he went on to suggest did take some action as he wanted them to cease contact with Mr D for six to twelve months. I'm expecting to formalise that approach and to ask BPF to cease contact for a year. I'll therefore set out why I'm expecting to ask BPF to do that.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr T acquired his car under a conditional sale agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

I was very sorry to hear about Mr T's ill health. I understand that when his situation changed he agreed to voluntarily terminate his finance agreement with BPF. The balance of the account once the car was returned to BPF is what is in dispute.

did the business agree to write off the debt?

I don't think there's sufficient evidence this was the case. BPF have explained that it's an internal process to label files sent to collection as "policy write off". I understand that is confusing and may be a little misleading, but I'm not persuaded there is evidence that BPF had agreed to write off the debt. I think their position throughout has been consistent and that they hadn't agreed to do that.

has BPF's approach to Mr T's situation been appropriate?

When a business is told about a consumers' financial difficulties I'd expect them to be sympathetic and positive and where it's clear a consumer is vulnerable, as I think is the case here, the business should be sensitive and flexible in their response to the consumer's needs.

I think BPF have been sympathetic and positive as I've not seen that they have applied interest or charges to the debt since they became aware of Mr T's situation and they've also held on to the debt and not sold it to a debt collection company. I'm persuaded they've done that to ensure Mr T's situation is dealt with appropriately. They've also been prepared to agree a repayment plan with Mr T.

should BPF have agreed to write off the debt?

I've thought about whether BPF have been fair and whether, given Mr T's ill health, they should agree to write off the debt he owes them. I can see that BPF have considered that option and have looked at the medical evidence. But I don't think they've been unreasonable refusing to write off the debt at the moment. I think it's reasonable to suggest there is a chance Mr T's health may improve and Mr T may be able to resume payments in the future. I very much hope that's the case.

I'm also not persuaded that merely because other lenders have agreed to waive Mr T's debts that BPF should do the same.

But as Mr T is clearly in no position to make repayments, and as he's currently struggling with his health, I would agree with the investigator that it would be fair for BPF to place no pressure on him to make repayments for a time.

I understand they may need to send statements on occasion, to comply with their regulatory commitments, but they should not contact him for the next twelve months to pursue the debt. Thereafter I would expect them to make another assessment of Mr D's medical condition in order to decide whether the debt should be waived or not.

complaint handling

This isn't a regulated activity and unfortunately, whilst I understand Mr T has concerns about the way in which his complaint has been handled, it's not something we can consider.

My provisional decision

For the reasons I've given above I am expecting to uphold this complaint in part and to tell Clydesdale Financial Services Limited not to contact Mr T, other than to complete their regulatory responsibilities, for the next twelve months.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

BPF had no further information to add but Mr T's representatives did provide some further information.

They explained that Mr T's health had deteriorated and that he would need a significant operation to correct a condition. They explained that he was receiving the enhanced rate of Personal Independence Payment as a result of his disability and that he was on the highest disability element as part of his Universal Credit award.

They said that Mr T's disposable income was under £3 per month and that as he'd clearly never be able to repay his debt with BPF they should waive it on compassionate and medical grounds.

I've thought about what Mr T's representatives have said. I'm really sorry to hear Mr T's health hasn't got any better but I still don't think BPF have been unreasonable refusing to write off the debt at the moment.

Whilst I know the current situation is not good I think it's still reasonable to suggest there is a chance Mr T's health may improve, and that may lead to him being able to resume payments in the future.

Putting things right

Mr T is clearly in no position to make repayments at the moment and he's currently struggling with his health. So, BPF should place no further pressure on him to make repayments and should not contact him for at least a year.

My final decision

For the reasons I've given above I am upholding this complaint in part and telling Clydesdale Financial Services Limited not to contact Mr T, other than to complete their regulatory responsibilities, for the next twelve months.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 3 February 2021.

Phillip McMahon
Ombudsman