

## **The complaint**

Mr L complains that Cabot Credit Management Group Limited is unfairly refusing to write off an outstanding debt

## **What happened**

In 2013, Cabot bought Mr L's debt from a business that I will call "E". Mr L has been making regular repayments to Cabot through a debt management plan ("DMP"). In 2017, Mr L asked Cabot to write the outstanding debt off due to his personal and financial situation. Mr L repeated his request in 2019 and 2020.

Cabot wouldn't agree to write the debt off. It made reduced settlement offers but said that if Mr L couldn't afford to settle the debt, he could continue paying into his DMP.

The investigator recommended that Cabot write the debt off. She explained the impact the debt was having on Mr L's mental health. The investigator didn't think it was fair to make token repayments over many years.

As Cabot didn't agree with the investigator's recommendation, the complaint has come to me for a final decision.

## **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.

Mr L isn't disputing the existence of the debt or Cabot's right to ask him for payment. So I don't think I need to say anything about the debt itself. My decision looks at whether, given all the information Mr L has given about his personal circumstances, it's reasonable to require Cabot to write the debt off.

Financial businesses are required to follow the rules of the Financial Conduct Authority ("FCA"). The relevant rules and regulations are contained in the Consumer Credit Sourcebook ("CONC").

CONC 7.2.2 says that customers with mental health difficulties or mental capacity limitations may fall in the category of particularly vulnerable customers. CONC 7.2.3 says that in developing procedures and policies for dealing with customers who may not have the mental capacity to make financial decisions, firms may wish to have regard to the principles outlined in the Money Advice Liaison Group (MALG) "Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt". And CONC 7.3.4 says that a firm must treat customers in default or in arrears difficulties with forbearance and due consideration.

CONC 7.3.5 says that an example of treating a customer with forbearance would include accepting token payments for a reasonable period of time. CONC 7.3.14 says a firm must not, in particular, apply to court for an order for sale without first having fully explored more proportionate options.

Chapter 13 of the MALG Guidelines say that creditors should consider writing off unsecured debts when mental health conditions are long term and hold little likelihood of improvement. And are such that it's highly unlikely the person in debt would be able to repay their outstanding debts.

Mr L has given Cabot and this service several documents detailing the mental health struggles that he and his family face. The Debt and Mental health Evidence form ("DMHEF") that Mr L's GP completed in July 2019 sets out a significant history of anxiety, depression, severe headaches and chronic insomnia. Mr L's GP explains how these conditions impact on his ability to work. The GP says that Mr L's anxiety levels increase substantially when discussing finances. This has led to Mr L's wife taking over control of the household finances.

I can see from the medical evidence supplied to this service and the information Mr L and his wife have provided, that Mr L is vulnerable and suffering from a long-term mental health condition which affects his ability to work. Although Mr L has recently increased his monthly repayments, this is only because at least two other creditors have agreed to write off significant outstanding debts in his name. Even with the increased monthly payments that Mr L has been making to Cabot, it would take over 35 years to repay the debt.

I appreciate Cabot says Mr L has equity in his property which could enable it to obtain a charging order. I don't have further information about Mr L's property, but I don't consider I need to. I say this as to obtain a charging order would mean Cabot taking Mr L to court which I think would place him under even more stress.

Having obtained a judgment and then a charging order, Cabot would only be able to seek an order for sale after taking account of Mr L's condition and then "only as a last resort, having explored all other possible options". I don't consider it likely that Cabot would force a sale of the property to settle the outstanding debt. Particularly as Mr L has a dependant with mental health issues living with him and his wife. It seems likely to me that the charging order would be used to secure the repayments to Cabot over time. This would leave Mr L worrying about the debt for the rest of his lifetime with the accompanying anxiety and sleep issues this would bring.

I take Cabot's point that it isn't its' policy to write off the debt. But bearing all the circumstances in mind and taking account of the MALG Guidelines and CONC, I agree with the investigator that the fairest thing to do is to require Cabot to write the debt off.

### **Putting things right**

To put things right, Cabot Credit Management Group Limited should:

1. Write off the outstanding balance on Mr L's account; and
2. Mark the debt as satisfied on Mr L's credit file

### **My final decision**

My final decision is that I uphold this complaint. In full and final settlement, I require Cabot Credit Management Group Limited to take the steps outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 14 May 2021.

Gemma Bowen  
**Ombudsman**