

## **The complaint**

Miss S complains that Foundation for Credit Counselling trading as Stepchange made mistakes when setting up a Debt Relief Order (DRO).

## **What happened**

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

*In 2018 and 2019 Miss S discussed her finances with Stepchange with a view to receiving advice about her debts. As part of the process, Miss S gave Stepchange information about her outstanding debts. Miss S had some unsecured credit that remained outstanding. And there was a County Court Judgement (CCJ) for around £9,000 that related to rent arrears.*

*Stepchange says it recorded the creditor's name as HCEO in line with what Miss S told the advisor. But Miss S has explained that HCEO referred to the High Court Enforcement Officers who were seeking to collect the CCJ debt on the creditor's behalf. Miss S also says Stepchange failed to note the correct reference number.*

*Stepchange ultimately arranged a DRO for Miss S and included the unsecured debts as well as the CCJ. Stepchange says it called Miss S to confirm the details of her debts and creditors before the DRO was submitted for approval. And Stepchange says Miss S confirmed the information, including reference to HCEO as a creditor, was correct.*

*The DRO was approved but Miss S later contacted Stepchange to say the CCJ issued in relation to rent arrears hadn't been included. As a result, the debt wasn't written off when the DRO was concluded. Miss S complained and Stepchange sent her a final response but didn't agree it had made mistakes when arranging the DRO.*

*An investigator at this service looked at Miss S' complaint. They thought Stepchange had dealt with Miss S' complaint fairly and didn't ask it to do anything else. Miss S asked to appeal, so her complaint has been passed to me to make a 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.*

*Miss S has explained that "HCEO" refers to the High Court Enforcement Officer which was seeking to collect the CCJ debt. And Miss S has explained that as a result of including HCEO in the DRO application the CCJ for her rent arrears wasn't included. Miss S says that Stepchange also made a mistake with the reference used in the DRO application. Miss S has forwarded evidence from The Sheriffs' Office that shows the debt remains outstanding and continues to accrue interest.*

*Miss S has told us that Stepchange took a copy of a text message that contained a*

reference to HCEO when she first discussed her debts in 2018. But Miss S says she explained HCEO was the agent seeking to collect the debt in relation to a CCJ for rent arrears. Stepchange says it took this information from Miss S who later confirmed it was the name of her creditor. But I've reviewed all the notes provided by Stepchange and at times it does appear that HCEO is understood to be the collections agent. I can also see there's information about the CCJ and rent arrears in Stepchange's notes.

Miss S has told us HCEO is a common abbreviation for "High Court Enforcement Officer" and I think she's right. Even if the advisor who arranged the DRO wasn't aware of the common abbreviation, I think they should've done more to clarify the creditor's details when setting up the DRO. It's clear HCEO stood for something and I think Stepchange should've checked the actual name of the creditor rather than relying on an abbreviation when setting up the DRO.

Stepchange says it checked the details of the DRO with Miss S over the phone before it was submitted. But Stepchange's contact notes show a charity that supports vulnerable consumers with serious health conditions paid for the DRO application. And Stepchange's notes show Miss S explained her medical condition means she can become flustered. So I think it was especially important for Stepchange to ensure the DRO contained the correct details.

In my view, Stepchange failed to carry out reasonable checks when setting up Miss S' DRO. I think it's fair to say that if the correct creditor details had been added to the DRO application, the CCJ would've been included.

The DRO was ultimately approved and ran its course from June 2019. At its conclusion, debts included were written off. That means Miss S would've been discharged from the CCJ if it had been correctly included. Miss S has forwarded correspondence from The Sheriff's Office that confirms the debt remained outstanding and has continued to accrue interest. So I'm satisfied the primary debt that ought to have been included in the DRO was not. And the information I've seen leads me to conclude that was due to Stepchange's actions. To put it another way, had Stepchange handled Miss S' DRO application with reasonable care the correct creditor details would've been included and she would no longer be liable for the CCJ debt.

I've carefully considered how to resolve this complaint. Miss S has provided evidence that shows the CCJ remains outstanding and continues to accrue interest. In my view, the fairest way to resolve this case is for Stepchange to work with Miss S to obtain an up to date settlement figure for the CCJ and pay that cost to The Sheriff's Office to clear it.

I can see the situation has caused Miss S a significant level of distress and inconvenience over an extended period. Miss S has told us she's been subject to visits from enforcement officers in relation to the CCJ debt and I'm satisfied the DRO issues have unfairly impacted her. So I also intend to tell Stepchange to pay Miss S £500 to reflect the level of distress and inconvenience caused.

I invited both parties to respond with any additional information they wanted me to take into account before I made my final decision.

Stepchange said it had sent Miss S a copy of the DRO order to check before it had been sent for authorisation. Stepchange also said it had used the name HCEO in the DRO because it was the creditor that was contacting Miss S to collect the debt at the time of the application. Stepchange noted HCEO is a widely known abbreviation for High Court Enforcement Officer. Stepchange also provided a copy of an email from the Insolvency Service to The Sheriff's Office from November 2020 that said it had no rights to pursue Miss S for a debt to HCEO following approval of the DRO.

Stepchange also said it didn't agree it should cover the outstanding balance as it wasn't responsible for the original debt. Stepchange offered to pay Miss S' bankruptcy fees in place of repaying the outstanding balance. Stepchange also said it felt a payment of £500 in recognition of the distress and inconvenience caused was excessive.

Miss S responded and confirmed she accepted the terms of the provisional 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.

Miss S has told us Stepchange didn't send a copy of the final DRO application to her for approval but called and completed the process over the phone. Stepchange says that's part of its stand process when setting up the DRO, but hasn't provided a copy of what it sent to Miss S to approve. So we have two different versions of events. But, even if I were to accept Stepchange sent Miss S a copy of the DRO for approval, I still think it made an avoidable error. And the consequences of the error have been significant for Miss S.

Stepchange's response accepts that HCEO is a well known abbreviation of enforcement agents that collect debts on behalf of The Sheriff's office. And it says the use of HCEO was made on the basis Miss S would update it before the DRO was approved. In my view, the case handler at Stepchange ought to have picked this point up with Miss S before submitting the application. Miss S isn't a professional and was receiving guidance and advice on the DRO process from Stepchange. And I remain of the view that Stepchange ought to have known that using HCEO as the creditor's name on the final DRO application would lead to problems for Miss S.

Stepchange's response also says it notes the HCEO in the DRO application as it's the creditor seeking to recover the debt. But an HCEO isn't a creditor. Stepchange's website gives information about the role of an HCEO. It says:

*The HCEO is a type of enforcement agent or bailiff...A Creditor can use HCEOs if you have a CCJ and you've not made the payment the court told you to make in the judgement.*

Stepchange's website explains the HCEO acts on behalf of the creditor to recover an outstanding CCJ debt. In this case, the DRO application was submitted with HCEO listed as the creditor for the CCJ debt. As I've said above, I think Miss S' case handler ought to have been aware that leaving HCEO as the creditor in the final DRO application was a mistake.

As no DRO has been approved that includes the actual CCJ creditor, the debt has not been written off. Stepchange has provided a copy of the Insolvency Service's email from November 2020 to The Sheriff's Office. It says:

*It has come to our notice that you are still pursuing the above named person for a debt to HCEO for which there are no rights of recovery following the approval of the above mentioned Debt Relief Order.*

But, The Sheriff's Office isn't pursuing Miss S for a debt to HCEO. It is pursuing her for a debt in relation to rent arrears to a private individual, as per the CCJ. It's also clear from the information provided that Miss S continues to be pursued for the outstanding balance which is accruing interest on a daily basis.

Our approach to resolving a complaint is to try and put the consumer back into the position they would've been in had no error been made. I note Stepchange's offer to pay bankruptcy fees now. But I don't agree that's a fair way to resolve Miss S' complaint. The proposal makes an assumption about Miss S' current circumstances. In addition, the impact of a bankruptcy three years after the complaint event would be significant on Miss S.

Ultimately, I remain of the view that Stepchange made an avoidable and significant error. As a result, Miss S' main debt wasn't included in the DRO. Had Stepchange sought to confirm the creditor's name and details before sending the DRO for approval the CCJ debt would've been included. And Miss S would now be discharged from her obligation to repay it. In my opinion the fairest way to resolve this complaint is Stepchange to pay the balance of the CCJ debt now as that will remove Miss S' obligation to repay it.

As a result of the CCJ debt remaining in place, Miss S has been contacted and visited on various occasions by the HCEO. The issue remains unresolved and has been ongoing for a significant period. I note Stepchange's view that £500 feels excessive in respect of the distress and inconvenience caused to Miss S but disagree. I still think Stepchange's actions cause unnecessary trouble and upset and that a payment of £500 fairly reflects that.

### **My final decision**

My final decision is that I intend to uphold Miss S' complaint and direct Foundation for Credit Counselling trading as Stepchange to settle as follows:

- Obtain an up to date settlement figure for the CCJ debt in relation to rent arrears and make a payment to settle it
- Pay Miss S a total of £500 for the distress and inconvenience caused

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 3 November 2022.

Marco Manente  
**Ombudsman**