

## The complaint

Mrs R complains Foundation for Credit Counselling trading as StepChange have:

- Unreasonably and unlawfully delayed adding a debt to her existing Debt Management Plan (DMP).
- The conduct of StepChange's staff throughout has been dismissive, patronising, and at times discriminatory.
- StepChange sent a letter dated 1 February 2022 which contains legally incorrect and deliberately misleading statements.
- StepChange have failed to provide evidence of their investigation and failed to provide an adequate response to the concerns raised.

## What happened

I issued a provisional decision setting out what'd happened, and what I thought about that. I've copied below the relevant elements, and they form part of this final decision.

*Mrs R set up a DMP with StepChange. A DMP is a plan that allows Mrs R to make one monthly payment to StepChange, who will then send payments to her creditors on her behalf.*

*In January 2022 she asked StepChange to add another debt to the DMP, and when they asked to speak to her on the phone she complained. Following her complaint, Mrs R said she experienced a number of issues including staff being dismissive, patronising, and at times discriminatory.*

*I'm aware Mrs R did say specific reasons why she felt discriminated against. Given this is a published decision out of respect for her privacy I've not mentioned them directly – but I wanted her to know I have seen her concerns and taken them into account.*

*In their letter of 7 February 2022 StepChange said on 10 January 2022 Mrs R contacted them regarding accounts with companies I'll refer to as B and L. On 13 January 2022 they asked if the account with L was the same as an account they already had. Mrs R replied the same day and said it was a different account, and she had some questions, but wanted it added to the DMP straightaway. StepChange said on 18 January 2022 they asked Mrs R to call them. They said there were two reasons for this – Mrs R said she had some questions, and they needed to check if a DMP was still suitable. StepChange explained:*

- *The addition of the account with L would significantly change Mrs R's overall debt*
- *The current estimated total debt was £4,405.98, and if adding L's account, then it'd be £6,944.64 – an increase of 36.5%.*
- *Mrs R currently pays £88 to her debts each month, adding the account from L will substantially reduce the amount she can pay to each debt*
- *This will likely increase the time it takes for Mrs R to pay off her debt by another two years.*
- *Although the DMP is likely to still be suitable, they still need to check this.*

*On this point, StepChange didn't think they'd done anything wrong.*

*In a separate response on 23 February 2022 about StepChange's advisers, they partially upheld the complaint saying although they could have communicated with Mrs R better, the advisers weren't incompetent.*

*Unhappy with this, Mrs R asked us to look into things.*

*Our Investigator's did so, but ultimately didn't think StepChange needed to do anything further.*

*Mrs R didn't agree, in summary she said:*

- *We'd failed to take into account that no material information can be given over the phone that StepChange don't already have.*
- *Regardless of the increase of debt the DMP remains the correct plan, and StepChange can't legally or procedurally justify any other recommendation.*
- *Mrs R said the letter of 23 February 2022 hadn't been sent to her.*
- *A Subject Access Request (SAR) won't give her copies of the documents she's asked for.*
- *We failed to address the incorrect dates in the letter of 1 February 2022.*

### ***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.*

*Mrs R has made a number of comments about the actions of StepChange not meeting legal standards. I think it's important to explain my role is to take into account regulations, good industry practice and relevant law – but my overriding remit is to decide things on a fair and reasonable basis. I can't decide whether StepChange have or haven't done something in accordance with the law itself – I can only decide whether I think they've acted fairly or not.*

*StepChange's request for Mrs R to call them*

*Mrs R says there is no regulatory or legal reason for them to have asked her to do this – and doesn't think it's acceptable to say it's their process.*

*StepChange set out in their response the reasons why they wanted Mrs R to call – and they also explained this in email exchanges with Mrs R, saying she's right there is no legal obligation for her to have to call them but their process is for her to do so.*

*Ultimately, I can't tell StepChange to change their procedures, all I can do is to consider whether their processes have had an unfair impact on Mrs R.*

*One of our Investigator's asked Mrs R if she's not able to use the phone – but she didn't reply to this. I can see during her complaint with StepChange she has asked them to call her. And, when contacting us, she's at times called us or asked for a call. With that in mind, I've seen nothing to suggest Mrs R would be disadvantaged by having to call. So, it seems this is her preference, rather than she can't.*

*I can see StepChange have justified on several occasions to Mrs R why she needs to call. They've set out, and I've summarised above, how much this additional debt she wanted to add would impact her plan. They've also explained it's possible when discussing the matter that their recommendation of a DMP may no longer be suitable. But they can only know this when they talk to Mrs R.*

*StepChange have quoted regulatory rules called the Consumer Credit sourcebook (CONC) – and section eight of CONC deals with debt advice. StepChange quoted CONC 8.2.2 to Mrs R saying:*

*“One aspect of conducting a firm’s business with due skill, care and diligence under Principle 2 is that a firm should ensure that it gives appropriate advice to customers residing in the different countries of the UK. Failure to pay proper regard to the differences in options for debt solutions available to those customers and to the differences in enforcement actions and procedures is likely to contravene Principle 2 and may contravene other Principles”  
In essence I think this places the emphasis on StepChange to ensure they’re always giving the correct advice. Here, Mrs R wants to increase the debt on her plan by over 36%, which could add over two years before matters are resolved. I think StepChange have been clear and consistent in saying the reason for wanting Mrs R to call, is to make sure they’re continuing to give good advice.*

*I appreciate Mrs R doesn’t think she can provide anything on the phone that StepChange don’t already know – but it’s for StepChange to decide the way they want to work, and I’ve seen nothing to suggest Mrs R couldn’t call.*

*Taking everything into account I don’t think I can say StepChange have acted unfairly. Because of that, I don’t think StepChange have delayed getting the debt added to Mrs R’s DMP plan – they’ve given her the right information at the earliest opportunity.*

The conduct of StepChange’s staff

*Mrs R feels they’ve been dismissive, patronising, and at times discriminatory.*

*StepChange have said the phone call that took place on 1 February 2022 could have been handled better – and they felt some email communication also could have been handled better. For this, they’ve said sorry.*

*I’ve listened to the call that took place on 1 February 2022. In it the call starts with StepChange’s agent asking if now is a good time to speak, Mrs R says no, and when StepChange say they can call back, she says they’ve got her now and the call continues. The agent then confirms the reason for the complaint, and then starts to explain the reason why they said they needed to speak to her. Mrs R says there is no lawful reason for the call. The agent attempts to have a conversation with Mrs R, but she doesn’t let them. In listening to this call, I think it’s fair to say the agent did their best to try and explain matters, but Mrs R wasn’t prepared to listen to them.*

*I can see StepChange have said the agent could have handled things better. But I’m required to assess the complaint based on the information available to me. And having listened to the call I don’t think the agent did anything wrong.*

*I’ve also considered the written communication. Having done so I don’t think any of this was unclear or abrupt either as has been suggested. I think what Mrs R was asked to do, and the reasons for it, were explained as clearly as they could be. So, I don’t think StepChange did anything wrong on this point either.*

*I appreciate StepChange has said they provided Mrs R with poor customer service at times. Mrs R doesn’t see it that way. She believes what StepChange have done goes beyond poor customer service. She’s felt they discriminated against her. I don’t though think I can fairly say I’ve seen in the customer service StepChange have discriminated against Mrs R, as she’s suggested, as I don’t think they’ve actually done anything wrong nor treated her*

*differently to anyone else. I say this because I'm satisfied they followed the same process with Mrs R that they do with all their clients.*

Letter dated 1 February 2022

*I understand Mrs R thinks this letter contains deliberately misleading and incorrect information.*

*But, having looked at the letter, I don't agree with this. The copy of the letter Mrs R has sent us, appears to say StepChange want her to call them to add the debt on to the DMP – and to make sure the DMP remains the best debt solution for her.*

*I've already set out above why I don't think this was unreasonable – so I don't think StepChange have said anything that is misleading or incorrect in this letter.*

*Mrs R has also said the information is illegal, but as I've set out above, I can't make a finding on whether information is or isn't illegal, as that is a matter for a court of law to decide – but I can consider whether StepChange have acted fairly.*

StepChange haven't provided evidence of their investigation

*One of Mrs R's complaint points is StepChange haven't shared what information they considered when replying to her complaint.*

*I can see one of our Investigator's suggested Mrs R raise a SAR if she wanted to know what evidence StepChange had relied on when carrying out their investigation. In response to this, Mrs R has said StepChange aren't required to share this information, according to the Information Commissioner's Office.*

*StepChange's request for Mrs R to call them aside, the rest of this complaint relates to communication she's had or received. So, given Mrs R has said StepChange aren't obliged to share the information with her – but most of it she's had anyway, I don't think they've done anything wrong on this point.*

## **Responses to my provisional decision**

Mrs R didn't accept my outcome. In summary she said:

- The decision isn't clear and she's not received a reply to the complaint raised in full due to StepChange's process of encrypting documents and not providing passwords to access those documents.
- At the top of the decision I've asked StepChange to consider their processes around asking for a call knowing nothing has changed, but haven't upheld this aspect. She asks why this part of her complaint hasn't been upheld.
- I've stated StepChange have said the reason for the call was explained by them to her, but she says I've not set out in the decision what this was. Mrs R also asks what evidence I've got to show they've told her this information.
- She asks which phone call I listened to, as the call she had was a member of staff refusing to escalate the complaint for her.
- In relation to the suggestion about her not making the call, she says she made it clear the reason the call can't take place is because it's during working hours. The wait times are in excess of 30 minutes which she can't do during a weekday.

- I've failed to address StepChange not calling her between 1pm and 2pm and asks why I've not addressed this and if it changes the outcome.
- In respect of the letter, she asks how I've reached the conclusion it's just asking her to call, when the letter starts "you'll remember we recently wrote to you about a debt that isn't on your debt management plan". She says this statement is not only factually incorrect but also misleading because StepChange hadn't proactively written to her about her debt. She also says the letter was delivered well beyond the 1 February 2022 it's actually dated to coincide with the complaint made to StepChange about their inaction.

Off the back of Mrs R replying I arranged for us to ask StepChange some further questions. I've incorporated their responses into my thoughts below.

### **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.

I'll address Mrs R's points in order – but I should explain having reconsidered everything I still don't uphold this complaint.

*My decision isn't clear and she's not received a response in full to the complaint*

I'm sorry Mrs R doesn't think my decision is clear. As she's not explained what specifically she thinks isn't clear, I can't clarify those points – instead I've focused on answering the concerns she raised in response.

In terms of the complaint she raised with StepChange she's said she never received a copy of the letter because of the online process to access this.

When putting this to StepChange they said they'd posted out the letters to Mrs R due to her difficulties accessing the letters online. They're not able to prove this but said they didn't think there was any reason to doubt she'd received the letters.

Our general approach to this is if letters have been posted by a financial business they've fulfilled their requirements and we wouldn't say they've done anything wrong. Here, I can't know if they did post the complaint letters, because they can't provide evidence of this.

Where information is incomplete I have to decide what I think is more likely than not, based on the information I do have. I've seen emails Mrs R has sent StepChange explaining she's not able to access the letters – and in response StepChange say they'll post them.

On balance, I think it's more likely than not they did. Why Mrs R didn't receive them I can't say, but on balance I'm satisfied StepChange have done what they're required to do on this point.

But, even if I thought StepChange then hadn't posted the letters, I'd need to consider the impact. Mrs R's concerns on this point are she's not seen the full outcome of her complaint. This isn't what she said initially – in her email to our service on 28 February 2022 she said she'd not been provided with any evidence of the investigation. Regardless though, I've seen emails exchanged between Mrs R and StepChange on 10 and 14 February 2022 which do set out StepChange's position on Mrs R's complaint. So, I'm satisfied Mrs R has been given the reasons for them turning down her complaint.

*Mrs R says I've asked StepChange to consider their processes so why hasn't the complaint been upheld*

I've noted Mrs R's comments, but I haven't asked StepChange to change their processes. I've said I can't tell them to change their processes, all I can do is consider the impact of their processes on Mrs R. And, for the reasons I've set out in this decision, I don't think StepChange have done anything wrong.

*I've not set out in the decision the reasons StepChange wanted Mrs R to call her*

I've re-read my provisional decision, and I'm satisfied the section "*StepChange's request for Mrs R to call them*" does explain why StepChange wanted her to call and my thoughts on this. And I've included in the "*What happened*" section of the provisional decision from StepChange's email of 18 January 2022 where they set out this information:

- The addition of the account with L would significantly change Mrs R's overall debt
- The current estimated total debt was £4,405.98, and if adding L's account, then it'd be £6,944.64 – an increase of 36.5%.
- Mrs R currently pays £88 to her debts each month, adding the account from L will substantially reduce the amount she can pay to each debt
- This will likely increase the time it takes for Mrs R to pay off her debt by another two years.
- Although the DMP is likely to still be suitable, they still need to check this.

*Which phone call have I listened to*

The phone call I listened to was 1 February 2022 – which is the same call StepChange have said they apologised for. I also asked StepChange to provide us with all calls – so I could listen to those.

I've listened to all the calls provided. Of these there was only two more, one of which was a call where Mrs R and StepChange agreed a call back at a specific time – and the second was the call back which went to voicemail.

I've not been provided with a call where Mrs R was told she couldn't escalate matters. As I can only base my outcome on the evidence available to me – which is primarily the call of 1 February 2022 which I mentioned in my provisional decision, I still don't think StepChange have acted unfairly here.

*Reason for not calling them is due to having to call during worktime*

Again we put this to StepChange, and they said this wasn't part of Mrs R's original complaint to them.

I've also not heard this mentioned explicitly on phone calls that she's not able to make or take calls during her working day. She does say they've called her while she's working, but I think that is the case for most people giving StepChange work to general office hours of 8am to 6pm. So, overall, I still think StepChange's request for her to call them was still reasonable.

*StepChange not calling between 1pm and 2pm*

I hadn't addressed this issue as it wasn't something that'd been raised as a complaint point – but as Mrs R has now mentioned it I arranged for us to put this to StepChange.

In response they said they'd never agreed to call her between 1pm-2pm. The calls I've been provided with say StepChange's agent would call her back at 3.10pm – and I've been provided with a voicemail saying the agent called back when agreed. So, I can't say they've done anything wrong on this point.

*1 February 2022 letter – factually incorrect and StepChange delayed sending it*

Mrs R has concerns about this letter saying they'd written to her about the debt. I've seen emails from StepChange to Mrs R on 18 January 2022 about the debt. Although this wasn't a letter, I think in the ordinary course of things it's fair to say StepChange sending an email could reasonably be interpreted as having written to Mrs R. So, I don't agree with her that the letter is factually incorrect, because they had written to her about her debt – albeit it was by email rather than a letter.

And for the delay in this letter being sent we also asked StepChange for evidence of it being posted. On this occasion, StepChange were able to provide this. The screenshot shows the letter was sent 1 February 2022 So, I'm satisfied the letter was posted when StepChange said it was – 1 February 2022.

Why it arrived a week later I don't know, but even if StepChange had delayed sending the letter (which, as I've set out above, I've seen evidence they haven't), I'd need to again consider the impact on Mrs R. She's said the letter was deliberately delayed so StepChange could send it when they also sent the complaint response. I'm not sure how this scenario could have a significant enough impact on Mrs R for me to then say StepChange need to do anything further.

**My final decision**

For the reasons I've explained above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 18 November 2022.

Jon Pearce  
**Ombudsman**