

The complaint

Mr M complains about NCO Europe Limited's actions when trying to recover a debt in his name.

What happened

Mr M complains that despite being made aware he's vulnerable and suffers with serious mental health difficulties NCO has continued to correspond with him instead of his representatives regarding an outstanding debt. Mr M also complains that NCO is seeking to recover a debt despite making a request for medical write off.

NCO was instructed by a business I'll refer to as A to collect an outstanding debt from Mr M. In April 2023, representatives that work for a charity that supports vulnerable individuals contacted NCO on Mr M's behalf. The representatives gave NCO lots of information about Mr M, including the basis on which he's considered vulnerable, information about his health and information about his mental health. Mr M's representatives asked NCO to consider a medical write off for the outstanding balance of his account.

NCO says that after some back and forth and obtaining the necessary information, it submitted the medical write off request to A in June 2023. NCO continued to send correspondence, concerning the outstanding balance to Mr M.

On 3 October 2023 Mr M's representatives emailed NCO and asked for an update concerning the medical write off request. They also advised that the continued correspondence being sent to Mr M was causing him a significant level of distress and impacting his mental health.

Mr M's representatives went on to raise a complaint and NCO issued a final response on 25 October 2023. In its final response, NCO confirmed the medical write off request had been forwarded to A to consider. NCO offered to raise a complaint with A directly concerning the length of time taken to consider the request.

An investigator at this service looked at Mr M's complaint about NCO and upheld it. They thought NCO had acted unfairly by continuing to correspond with Mr M about the debt after his representatives had confirmed his vulnerabilities and health concerns. Specifically, the investigator thought NCO should've taken Mr M's representatives comments in their email dated 3 October 2023 into account when considering how to communicate with him.

The investigator accepted that any decision concerning a medical write off was one only A could make. But they asked NCO to pay Mr M £200 for the distress and inconvenience caused by continuing to contact him about the debt despite being aware of the impact this was having on his mental health.

NCO asked to appeal and said that whilst it sends correspondence in respect of Mr M's account to him, it's not the data owner. NCO also said it was bound A's decision to continue corresponding regarding Mr M's account. As NCO asked to appeal, his complaint has been passed to me to make a 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.

I'm aware I've summarised the events surrounding this complaint in less detail than the parties involved. No discourtesy is intended by my approach which reflects the informal nature of this service. I want to assure all parties I've read and considered everything on file. I'm satisfied I don't need to comment on every point raised to fairly reach my decision. And if I don't comment on something, it's not because I haven't considered it. It's because I've focused on what I think are the key issues. My approach is in line with the rules we operate under.

Like the investigator, I accept that NCO isn't the party that can decide whether to write off Mr M's debt based on the medical evidence provided by his representatives. That's a decision for A as the debt owner. As NCO advised, if Mr M wishes to make a complaint about the way his medical write off request has been handled by A, he can do that directly. Alternatively, our investigator will be able to assist if that's an option Mr M wishes to take up.

In response to the investigator, NCO said its contact strategy is set by A so it was unable to stop sending letters to Mr M about the outstanding debt. Whilst A is the debt owner and I accept it sets the contact strategy, NCO is still obliged to treat Mr M positively and sympathetically and ensure isn't acting unfairly. In my view, there was enough information in the emails and information provided by Mr M's representatives that should've identified that continuing to contact him in the same way it had been was causing serious harm to his mental health. And if NCO wasn't able to make a change in the way it was communicating with Mr M on its own, I think it should've taken the step of involving A at that time to get direction on whether to keep contacting him directly.

I haven't seen anything in the evidence supplied by NCO that it took reasonable consideration of Mr M's health when corresponding with him. And I'm satisfied NCO could either have stopped sending correspondence to Mr M directly or contacted A for guidance but failed to take either step.

I agree with the investigator that a payment of £200 fairly reflects the level of distress and inconvenience caused to Mr M. So I'm going to proceed on that basis and uphold Mr M's complaint. Going forward, NCO should take a close consideration of Mr M's circumstances, vulnerabilities and mental health into account when deciding how to fairly correspond with him.

My final decision

My decision is that I uphold Mr M's complaint and direct NCO Europe Limited to pay him £200 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 17 April 2024.

Marco Manente
Ombudsman