

## **The complaint**

Mr R is unhappy that Totemic Limited trading as PayPlan will not write off his outstanding debts due to ill health.

## **What happened**

Mr R is unhappy with the way that PayPlan has administered his account. Mr R says that the medical reports he supplied to PayPlan all state that he would never be able to return to work. He thinks PayPlan has failed to keep the medical information on file and ignored his correspondence.

Mr R says that when PayPlan took over his debts, it said that as he had supplied proof he would not return to work, after four years of making payments it would ask for the debts to be written off.

Mr R says that the Financial Ombudsman Service upheld his complaint about a creditor harassing him and that we said PayPlan should write the debt off.

PayPlan told Mr R that when he entered the DMP in 2004, it discussed setting up a Trust Deed Arrangement. This is a four year plan where the debts would be cleared at the end of the four year period but Mr R did not want to take this option up.

PayPlan told Mr R that it could not obtain medical information itself or cover the costs of requesting it. But PayPlan said in early 2018, that the last six months of medical evidence would be enough to allow it to contact creditors on his behalf.

Our investigator explained that PayPlan needed to see medical evidence before it could ask any creditors to write off Mr R's debts. Although Mr R said he had supplied this information to PayPlan in the past, our investigator had not seen evidence of this. Our investigator also explained that it was reasonable for PayPlan to ask for up to date evidence.

Our investigator thought that PayPlan had suggested alternatives to help Mr R if it was going to be financially difficult to pay for a medical report. Our investigator also suggested that Mr R approach his creditors direct – with our help – to consider writing off his debts. But that this would still require medical evidence.

Mr R disagrees with the investigation outcome. He says that PayPlan has breached the Disability Discrimination Act 1995 (DDA) by ignoring information he supplied.

## **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 appreciate that I have summarised this complaint in less detail than the parties and have done so using my own words. The rules that govern our service allow me to take this approach, but it does not mean that I have not considered everything the parties have supplied to us.

I am sorry to see that Mr R has been struggling with his health over many years and can appreciate that dealing with debts on top of ill health, is very stressful. But having considered everything we have on file; I am not persuaded that PayPlan has treated him unfairly.

It is possible to ask a creditor to write off a debt if someone is never going to be able to repay the debt due to poor physical or mental health. But I would only expect a creditor to take this step if it was supplied with evidence of the illness or injury.

In Mr R's case, I can see from PayPlan's notes that it has been asking him to supply medical evidence to support his request to write off debts since at least as early as January 2017. PayPal wrote to Mr R in January 2018 noting that he wanted it to contact his creditors to request that his debts be written off as he was unable to return to work. PayPlan asked Mr R to supply medical documentation to help support this request. PayPal said the same thing in a letter sent in February 2018 and again in September 2020. So, I can't fairly find that PayPlan did not respond to Mr R's requests that his debts be written off.

Although Mr R says he has supplied this evidence in the past, PayPlan has no record of receiving it and Mr R has not provided the medical evidence to us. Without some evidence of Mr R's medical condition and the impact it has on his ability to work, I don't consider it unreasonable for PayPlan not to have submitted his requests to write off any debts.

I am satisfied that PayPlan has suggested alternatives to a medical report which Mr R has not taken up. Our service has also offered to support Mr R if he wants to write to his creditors with some medical evidence. I don't have evidence to suggest that Mr R or his representative has approached his GP to discuss whether they would be willing to provide a report free of charge – this may be something he'd like to consider. Overall, I think PayPlan responded fairly to Mr R's requests and has been helpful in suggesting alternative ways that he could supply the medical evidence necessary for it to put a case forward that his debts be written off.

I have seen a call note from April 2004 which says that PayPlan contacted Mr R to suggest that he consider a Trust Deed. Mr R was unwilling to take the suggestion up as he was spending time in hospital and he was waiting for a response from the Financial Ombudsman about the poor handling of his debt situation. So, I don't conclude that PayPlan somehow mislead Mr R into thinking that his debts would have been written off after four years.

Mr R says that PayPlan has breached the DDA by ignoring information that he sent but I don't have enough evidence to conclude this. PayPlan does have a record back in 2018 of acknowledging that it did not respond to a letter that Mr R sent in September 2017. PayPlan actioned the update to creditor information but failed to confirm it had done so. I cannot however see that this is evidence of PayPlan not responding to medical information supplied by Mr R. Overall, I don't think PayPlan has asked Mr R for evidence that it would not ask another consumer to supply in a similar situation. So, I don't consider it has acted in a discriminatory way toward him.

Our investigator suggested that Mr R contact PayPlan to arrange a budget review which can be conducted by phone, post or online. In April 2024 PayPlan sent Mr R a third party letter of authority which would allow him to authorise PayPlan to speak with a third party on Mr R's behalf. If Mr R wants his representative to act on his behalf and has not yet done so, I suggest that he completes and returns the form.

Finally, Mr R refers to another complaint or complaints that he made to our service concerning harassment in relation to a debt. I have checked our records but given the time that has passed, I can't access everything we may have held on file. And the ones that I can still see, don't appear to be related to the debts that PayPlan is dealing with on his behalf.

For the reasons I have set out above, I am not persuaded that PayPlan has treated Mr R unreasonably and I don't find that it has ignored his requests to write his debts off.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 13 September 2024.

Gemma Bowen  
**Ombudsman**