

complaint

Mr G is unhappy that Link Financial Outsourcing Limited (Link Financial) won't write off his outstanding debt.

background

Mr G contacted Link Financial in November 2017 to ask them to write-off the outstanding debt he had with them. He included a letter from his GP which outlined his health and how the debt was having an adverse effect on his life.

Mr G says Link Financial didn't get back to him about this.

In response, Link Financial have said they did contact him in December 2017 and January 2018, but didn't get a reply from him. They say they did hear from another organisation – on behalf of Mr G – in January and February 2018, where it was confirmed that Mr G had a monthly disposable income of around £35.

Mr G was paying Link Financial £5 at the point he wrote to them – and just over £6 from May 2018 onwards. And they say, when they contacted Mr G in February 2018, he confirmed he was happy to keep paying the £5 each month. They also said they didn't think they had breached any of the relevant guidelines that applied to their organisation.

Our investigator upheld Mr G's complaint and informally recommended that Link Financial write off Mr G's debt – taking into account his health and the fact that it would take over 100 years to pay the debt off, at the monthly rate of £5. Link Financial said they'd consider looking at this again, if they were provided with up-to-date information about Mr G's financial situation.

Our investigator didn't think that was necessary – Mr G's financial circumstances hadn't changed since he'd last provided income and expenditure information and she thought that Link Financial should make a decision based on what was available.

After sending a written view to Mr G and Link Financial, she heard nothing further from Link Financial. So the complaint has been passed to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done that, I've decided to uphold Mr G's complaint.

Under section 7.2 of the ConsumerCredit Sourcebook (CONC) it says:

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) Guidelines "Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt".

And under section 13 of the "Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt", it also says:

Creditors should consider 'writing off' unsecured debts when mental health conditions are long-term, hold out little likelihood of improvement, and are such that it is highly unlikely that the person in debt would be able repay their outstanding debts.

A footnote adds:

Firms should also have regard to FCA CONC 7 dealing with arrears, default and recovery, including treating customers in default or in arrears difficulties with forbearance and due consideration.

So, I've considered Mr G's health and his ability to repay the debt in light of this guidance.

From the information I have, I can see that Mr G has had the same health issues since at least 2014 – when he wrote to Link Financial to say his health had not improved and his circumstances were unlikely to change for the foreseeable future. He also said he was barely able to pay them, was worried about losing his job and described the debt as an 'on-going burden' that stopped him having a normal life. He asked them to write-off his debt.

He further wrote to them in July and November 2017 – again asking them to write-off his debt. And with the latter, he included a note from his GP, which explained the serious impact the outstanding debt was having on Mr G's health.

From this, I think it's clear that Mr G's health condition is exacerbated by his financial worries. And his health issues are long-term and have not improved.

When Mr G brought the complaint to us, he still owed around £6,300. If he continues to pay Link Financial £5 a month, it will take him a further 100 years to clear the debt. And even if he paid at the slightly higher rate of just over £6, it will still take over 85 years.

In addition, income and expenditure information from December 2016 and February 2018 show no change in Mr G's expendable income – which is £35 each time. It's worth noting that Mr G had cancelled pension/life assurance payments by February 2018 which meant he still had the £35 as spare income. My understanding is that his financial situation still hasn't changed.

So, I think it's likely – even if Mr G did produce new income and expenditure information – it wouldn't show an improvement in his finances.

I'm also aware that – through a third party organisation – all of Mr G's spare income is used to pay off other debts.

So – taking into consideration how much expendable income Mr G has available for his debt with Link Financial *and* the amount outstanding – I think it's highly unlikely Mr G will ever be able to pay this off.

Taking this and Mr G's poor health into consideration – and thinking about what CONC says about the MALG guidelines – I think it would be reasonable to tell Link Financial to write-off Mr G's outstanding debt with them.

I'd like to add that I do think Link Financial have gone some way to help Mr G – and that the monthly amount they've asked for isn't entirely unreasonable. And the system records I've

seen suggest they did get in touch with Mr G – even if he doesn't recall this. But I think they should've given more consideration to the impact the debts continue to have on his health – as the guidelines suggest – and written them off.

putting things right

Link Financial should write-off Mr G's outstanding debts with them, making the balance zero and ask for no further payments.

my final decision

I've decided to uphold Mr G's complaint against Link Financial Outsourcing Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 18 March 2019.

Guy Johnson
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