

complaint

Ms W is unhappy with how Christians Against Poverty 'CAP' have handled her debts.

background

In August 2016 Ms W contacted CAP for support handling her debts. At this time she owed money on her council tax, to two utility companies and had three other outstanding debts. It was established that Ms W could afford to pay £5.16 to CAP every fortnight and it would pay this towards her arrears on her council tax and utility bills (the debts listed in the meeting as 'priority'). This schedule also lists that monthly, Ms W could afford to make token payments of £1.19 to CAP for "Other debts and to save on insolvency costs". In September 2016 CAP contacted the companies to let them know about its involvement and, where relevant, the payments due to be made. From October 2016 the payments were then made in line with the schedule.

One of Ms W's other outstanding debts was money due to a pawnbroker. In January 2015 she had pawned some items of jewellery in exchange for a loan. The agreement set out that it was for six months, but Ms W hadn't been able repay the money when the loan was due to end. CAP didn't list this debt as a priority on her schedule, so no payments were arranged to be made towards it.

In November 2016 Ms W had a County Court Judgement ('CCJ') issued against her by one of the other companies for a credit card debt. CAP provided Ms W with court forms and asked her to contact it if she didn't think she owed this debt. The court ordered the CCJ and in January 2017 CAP began making £1 payments towards this debt each month.

In January 2018 Ms W raised a formal complaint with CAP. In this letter she also cancelled her arrangement with it and asked for all monies she paid it from the start to be returned to her. Her complaint points were:

- It had failed to stop the CCJ
- It hadn't handled her utility bills correctly
- It wasn't handling her pawn broking debt
- It hadn't understood a separate court case she had ongoing, which she considered irrelevant to it handling her debts

CAP responded setting out that:

- The debt the CCJ had been issued on had defaulted prior to CAP's involvement. So it wasn't able to prevent or stop a CCJ being issued and had done all it could by negotiating with the court for £1 payments to be made
- It was responsible only for making payments towards her arrears on the utility bills, not for on-going payments. And that the arrears payments had been made
- It wasn't able to fully respond on the pawn broking element at this time
- It needed to know the details of any damages being awarded to her in order to consider what debt advice it should give

It also set out how it had lost contact with Ms W from May 2017. In September 2017 it said it tried to get in contact with her again, but didn't receive any response. In December 2017 it wrote out to her asking if she wanted to continue working with CAP. When no response was received again her account was closed. It considered it should've made more attempts to

contact her between May and September 2017, so it awarded her £100 to apologise for this. CAP also said it had already returned all the money of hers that it held, but it couldn't return the money it had paid towards her debts while it worked with her.

In February 2018 the pawnbroker wrote to Ms W to say it had sold her items and so her debt was cleared. On receipt of CAP's response to her original complaint, she then wrote a further letter. In this she complained that CAP was fully responsible, informed it her items had since been sold and she expected CAP to get them back and said she'd fully explained that she wasn't receiving an award for damages as this amount was offset against rent money she owed.

CAP responded explaining that it wasn't possible to get the items back. It said the pawnbroker was entitled to sell the items under the agreement Ms W entered into before she started working with CAP. It said that Ms W didn't have funds available to make payments towards this debt, so it was highly unlikely she could've kept the items as she couldn't clear the debt. However it said it should've done more to alert her to risk of her goods being sold. So it awarded her a further £100 in compensation.

Ms W was unhappy with this so she brought her complaint to our service. Her complaint contained all her original points and the additional ones following the sale of her items. I issued a provisional decision on this complaint in July 2018.

CCJ

I reviewed Ms W's comments in relation to the CCJ, but was in agreement with the investigator that CAP handled this debt appropriately.

When Ms W first went to CAP she informed it of this debt and said she was over £1,000 in arrears to the company who had bought it from the credit card provider. As Ms W had a very limited amount of disposable income and owed money on her council tax and to utility companies, this debt wasn't recorded as a priority. So no payments were made towards it by CAP, as the amount Ms W could afford to pay wasn't enough to cover non-priority debts too. I agreed with the way CAP categorised her debts, as the personal impact on Ms W of not paying her council tax or utilities would've been much greater.

The CCJ claim form CAP provided Ms W set out that she'd received a default notice for this debt but hadn't complied with it. At that point in time the only way to stop the CCJ would be for Ms W to show she didn't owe the money. However as it was clear she did, CAP had no power to prevent the CCJ.

I understood Ms W's distress at receiving a CCJ. But I said that simply put, it came as a result of money she spent and then her inability to repay it, not CAP's actions.

utility bills

I explained that our service is only able to look into how CAP has handled debts due under 'credit agreements' – which are a specially defined type of agreement under our rules. The kind of debts Ms W had towards her utilities didn't meet this definition, so I said we couldn't look into CAP's handling of these debts.

pawn broking debt

I appreciated that it must have been very upsetting and stressful for Ms W to learn her items had been sold. But didn't consider this was something I could hold CAP responsible for.

In a similar respect to the CCJ, from when Ms W didn't repay the loan, her items could have been sold. Her loan ran for six months from January 2015, so the loan term had technically ended over a year before she involved CAP in her finances.

CAP said it should've given Ms W more information about the risk to her items by not paying this debt. But it also set out that she didn't have the disposable income to clear the debt. And from looking at her financial statement, as I'd set out in relation to the credit card debt, it didn't seem she was in a position where she could pay any more towards her debts when CAP started to help her. Because of this, I didn't see what difference it giving her this information would've made – especially as Ms W told CAP she didn't want to lose the items, so it seemed she understood the risk they were under – but sadly wasn't in a position to prevent it. However as CAP determined it should pay Ms W £100 for this, I considered this offer fair.

I appreciated the pawn broker sold the items a few weeks after Ms W stopped working with CAP. But I didn't know if this was just a coincidence or as a result of her no longer having more formal debt support. However Ms W cancelled her arrangement with CAP around the same time it wrote to her to say it was ending the arrangement as she wasn't responding. So it seemed both parties were in agreement the arrangement should end in January 2018 and therefore even if CAP hadn't cancelled the agreement, Ms W had.

Ms W asked why she wasn't made aware that ending her arrangement would result in the items being sold. But as I'd already set out, I didn't think it was clear if this was what happened. And I said CAP wasn't responsible for the actions the pawn brokers chose to take. So even if there was a direct link, I couldn't see that CAP would've known this – and as Ms W wasn't responding to it, I couldn't see how it would've discussed this with her in any event.

legal proceedings

I understood that Ms W wasn't receiving any damages as a result of her law suit as these have been offset against rent payments that she owed her landlord. I therefore understood her point that this won't affect her overall finances as she isn't receiving any large cash sums.

However I could see in CAP's letter to her from December 2017 that it asked about more than just the damages settlement. It also expressed concern about her housing situation going forward and said it needed to complete an annual review with her. It set out that the Insolvency Service wanted significant details about her situation, so it seemed it was asking for further information to pass over to this third party. So while Ms W may have given CAP everything she thought was relevant, it seemed another party was asking for more than she'd given.

CAP was getting this information to try and accurately assess Ms W's options going forward. I appreciated it would've been frustrating for her if she felt she was repeating herself or being asked about something that wasn't relevant, but I considered that CAP was trying to help. And unfortunately the processes it had to follow meant it needed more information from her.

So I didn't think she was due any compensation for the way it dealt with her other legal proceedings.

other issues

I agreed with CAP that it was only due to return the money it held for Ms W in her CAP account. I didn't think it was reasonable for Ms W to ask for all the money she paid it from the outset, as CAP paid the majority of this money towards her debts. By doing so it had cleared some of her arrears and likely prevented formal action against her. I said it wasn't possible for CAP to get this money returned from her creditors to give to her. And even if it was, this would put Ms W back in a much worse position.

In relation to the compensation offered for the time CAP didn't chase Ms W between May and September 2017, she hadn't complained about this or the fact CAP didn't chase her. I expected both parties to be responsible for keeping in contact with each other. And Ms W didn't respond when it did contact and chase her in September. So I wasn't certain that if it had taken any action between May and September this would've changed the situation. But as CAP considered £100 compensation was due for this time period then that's its decision. On that basis I thought the offer was more than fair and didn't increase it.

CAP said it didn't have anything further to add in response to the provisional decision. Ms W said that she had nothing further to provide, but asked whether I was going to have her CCJ set aside. She also added that as this debt was over six years old legally her creditors couldn't chase her for it.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither party has added anything further, I don't consider I need to change my findings from my provisional decision. So for the reasons summarised above and set out in my provisional decision, I don't uphold Ms W's complaint.

In relation to the CCJ, I don't have the power to set this aside. A court has determined Ms W owes this debt and a CCJ has been issued. I also set out that I don't consider CAP had done anything wrong, so I think the CCJ was a result of Ms W's circumstances, not CAP's actions. So I'm not making any award for or changes to this debt.

I appreciate Ms W's reference to the six year time-frame set out in the Limitation Act. But this timescale is in relation to enforcing a debt in court. Her creditor has already done this by getting the CCJ issued. So Ms W is required to pay the amount the court determined, regardless of how old this debt now is.

my final decision

I don't uphold Ms W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 24 September 2018.

Amy Osborne
ombudsman