

complaint

Mrs W complains that Link Financial Outsourcing Limited (Link Financial) is nagging her to make payments towards her outstanding debt which she cannot afford.

background

Mrs W entered into a hire purchase agreement (HPA) in 2007 to acquire a car. She then entered financial difficulties and in 2008 surrendered the car. The car was sold and the sales proceeds applied to Mrs W's account. However a shortfall remained which Mrs W was liable for. The debt was passed to Link Financial in May 2008. Mrs W made token payments towards the debt until 2014. Mrs W has now retired.

Mrs W says she received a letter from Link Financial in October 2017 asking her to make payments. She says she spoke with Link Financial and was given a settlement figure of over £2,000. She says she was told this needed to be paid in no more than three monthly instalments. Mrs W says she does not have the money to make these payments.

Link Financial says that the last payment on Mrs W's account was in March 2014 and that she remained liable for the outstanding balance of over £3,600. It says that it has acted in line with the regulations.

Our investigator upheld this complaint and recommended that the debt be written off. He said there was no realistic chance of Mrs W ever repaying the debt and that the requests to repay it are causing her stress. By writing off the debt he explained that this would not mean that the debt had gone but that Link Financial would not pursue it any further.

Link Financial asked for an ombudsman's 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. My role is to consider each complaint based on its merits. While I take relevant law and regulations into account my decision is based on what I consider is fair and reasonable in each case.

Link Financial took over the debt after Mrs W had surrendered the car under her HPA. This took place in 2008. Mrs W made token payments for an extended period of time but the last payment was made in 2014. Link Financial has said that Mrs W remains liable for the outstanding balance of over £3,600.

While I do not find that Link Financial is wrong to say that Mrs W is liable for the outstanding balance I have considered what I think is fair in this case given the unique circumstances.

I note that Mrs W initially wanted her debt to be reduced and a lower settlement amount offered. This could suggest that she thought she might be able to make some level of payment. However after further discussions it does not appear that this is the case. Mrs W says that when she was discussing the settlement figure she was trying to replicate actions that had been taken by another creditor. She then explained that this was a number of years prior and she was working at the time which is no longer her situation.

Mrs W is retired and does not have any potential of income beyond her pension. She has also explained that she does not have any assets. Link Financial carried out an income and expenditure assessment of Mrs W in October 2017 and found that she had a disposable income of less than £20 per month. Based on the information provided, I cannot see that Mrs W has the money available, or is likely in the future to have the money available, to repay her outstanding balance.

I note that Mrs W is making payments on other debts and she has explained that she is making the minimum or near minimum payments each week on her credit cards. She is not expecting a change in her circumstances in the near future and so I do not think it reasonable to consider she will have a reduction in her costs and hence an increase in her disposable income any time soon. Based on this I cannot see that Mrs W has or is likely in the future to have the money available to make repayments on this debt (other than possibly a token payment).

While I note that interest and charges have not been applied and that Link Financial has not done anything wrong by saying Mrs W remains liable, I think it reasonable to now try to consider a way forward.

Mrs W has explained that the contact by Link Financial has caused her stress and given her financial situation is not likely to change, it does not seem reasonable for Link Financial to continue to pursue Mrs W for this debt.

Our investigator recommended that the debt be written off. He explained this meant that the debt would not be gone but that Link Financial would no longer pursue it. In this case, given Mrs W's financial circumstances and that this issue is causing her stress, I find that this is the most reasonable resolution.

my final decision

My final decision is that Link Financial Outsourcing Limited should write off the debt and no longer pursue Mrs W for payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 23 November 2018.

Jane Archer
ombudsman