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Overview

It is not always easy to convince creditors to write off a debt you owe them. You will normally need to convince a creditor that writing off the debt is in their best interest as well as in yours. It is helpful to evidence why they are not likely to get enough money back in the long term, and why it is not cost effective for them to continue to pursue you.

Debt Write-off scenarios

Although obtaining a write-off for a debt is not easy, it is sometimes possible and has clear benefits such as; you are released from the burden of the debt, debt collection stops, stress and anxiety are reduced and it enables you to make a fresh start. In some situations creditors may recognise that they have little or no chance of recovering their debts, for example;

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- You rent your home and have no surplus income after paying for basic needs, no savings and no assets
- You have a serious or terminal illness, long-term ill health, or have a disability which means you are not working or likely to work again
- You are a pensioner, or you are nearing retirement age, receive a limited benefit income and likely to remain on a limited income
- Other creditors have agreed to write your debts off
- The person owing the debt has died without leaving any property, money or other assets

In these situations the creditor may accept that it is not in their best interest to pursue you for the debt.

Evidence

A creditor will need proof that you are unable to repay the debt you owe. It will help your case if you haven't been able to make payments and can evidence on your income and expenditure form that there is no surplus left to offer your creditors.

Good practice

Creditors should be treating customers fairly. The Lending Standards Board (www.lendingstandardsboard.org.uk) has given creditors guidance about this and it may help when you request a write-off. In their Standards of Lending Practice – Personal Customers (www.lendingstandardsboard.org.uk/wp-content/uploads/2017/12/Standards-of-Lending-Practice-Personal-7-Dec.pdf) it states:

“Firms should take into account the customer’s circumstances and consider whether it would amount to a fair customer outcome to pursue, or to continue to pursue, the amount owed.

Where a Firm considers the customer’s personal and financial circumstances to be exceptional and unlikely to improve, the firm could, amongst other options, consider writing off or not pursuing part or all of the customer’s debt(s).” Information for Practitioners – Financial difficulty, Section 11.

The Money Advice Liaison Group (www.malg.org.uk) has also published guidance about writing off debt in connection with long-term mental health issues in their Good Practice Awareness Guidelines (www.lendingstandardsboard.org.uk/wp-content/uploads/2017/12/Standards-of-Lending-Practice-Personal-7-Dec.pdf) for helping consumers with mental health conditions and debt. This states:

“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 to repay their outstanding debts.”

Debt and mental health

If you have mental health issues which are seriously affecting your ability to manage your money and debts, you could ask a health and social care professional to complete a Debt and Mental Health Evidence Form.

If you have a physical disability, you could ask your doctor to write a letter or statement to your creditors explaining your circumstances.

Creditor refuses the write-off

If the creditor refuses to write off your debt, ask for an explanation as to why they have refused, if they have not already given you reasons. If the creditor is a registered firm with the Lending Standards Board, they are encouraged to give reasons in Section 11 of the Information for Practitioners - Financial difficulty.

If you can provide further information, or make new points which respond to the creditor's reasons, include these in your reply.

Partial Write-off

In some circumstances creditors can sometimes agree or offer to reduce payments over a limited period, with the rest of the balance written off. You should ask them to suspend interest and charges during the repayment period.

When the creditors respond, it is important that you keep written confirmation of the agreement. Once you have reached the end of the repayment arrangement, write to the creditor confirming the end of the payments under the terms of the agreement and ask them to confirm in writing that you no longer have the debt.

Effects of a Write-off

Obtaining a write-off on your debt is likely to have a negative impact on your ability to get credit in the future for up to six years. If a creditor writes off your debt, it means that no further payments are due. You should ask that the balance on credit reference agency reports is set to zero, although the debt will be registered as a default on credit reference agency reports, they can add a flag to the account to indicate that a write-off or a partial write-off was agreed. You should obtain copies from

all three credit reference agencies to check that this has been done.

Joint Debts

If your debts are owed jointly with another person, the creditor might agree to write off your liability for the debt but still pursue the other person for the whole amount. To avoid this, you should request a write-off agreement that includes both parties in the agreement.

Tax Credit overpayments

HM Revenue and Customs (HMRC) (www.gov.uk/topic/benefits-credits/tax-credits) rarely agree to write off a tax credit overpayment debt (www.gov.uk/tax-credits-overpayments/cant-afford-repayments). However, in particular circumstances they may agree to release the person from their liability, this is known as remission. They may consider remission when the person owing the debt has mental health issues or is suffering from severe hardship, or when they are satisfied that the person should not continue to be pursued for payment of the debt.

You can find further information about HMRC's approach to recovering overpayments by reading Tax credits: what happens if you've been paid too much (COP26) (assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/877035/COP26.pdf). HMRC runs a special Payment Helpline on 0345 302 1429 which you can contact to discuss why you want HMRC to stop recovery action.

Guarantors

A guarantor is someone who has legally agreed to pay the debt of someone else, if that person falls behind on their payments. The guarantor has to sign an agreement. If your agreement has a guarantor linked in with it, and you request a write-off, it would be advisable to contact your guarantor, to warn them that they are likely to be asked to pay the debt back for you.

It is important to select the best option for you. If you find that some of your creditors do not agree to a full or a partial write-off, you might want to look at other debt solutions to clear your debts.

⚠ If you think that the guarantor's affordability was not checked properly at the time of the borrowing, and the loan was unaffordable, you may be able to complain and challenge liability for the debt. Speak to a free specialist debt adviser for advice on how to go about this.