

The complaint

Mrs C complains about the service provided by Fresh Start UK Debt Management Ltd and the advice to take out and retain a Debt Management Plan (DMP).

What happened

In 2006 a business I'll call P arranged a DMP for Mrs C in respect of debts in her name. P later went into administration and Fresh Start took over responsibility for providing debt advice and administration to Mrs C.

In 2019 Mrs C's account was passed to Fresh Start after P went out of business. Fresh Start completed annual reviews of Mrs C's circumstances and financial position. In August 2019 Fresh Start assessed Mrs C's circumstances and advised her to consider bankruptcy but she chose to let the DMP remain in place. Similar advice was given in 2020, 2021 and 2022 but Mrs C didn't proceed in line with Fresh Start's recommendations. During the annual reviews, Mrs C provided information about serious health problems she suffers with and gave Fresh Start consent to record the details on its system.

Last year, a family member acting on Mrs C's behalf complained to Fresh Start about the advice to take out a DMP in 2006 and maintain it in the years that followed. Fresh Start issued a final response and explained that the original advice to enter a DMP had been given by P in 2006. Fresh Start said it wasn't responsible for the advice given by P. Fresh Start said it had carried out reviews of Mrs C's circumstances each year from 2019 and recommended other suitable solutions for dealing with the debts each time. But Mrs C didn't proceed with the advice provided and continued to make payments towards the DMP.

An investigator at this service looked at Mrs C's complaint. They thought Fresh Start had dealt with Mrs C's complaint fairly and didn't ask it to do anything else. Mrs C's representative asked to appeal and asked whether there was recourse to hold Fresh Start liable for the advice provided by P in 2006. The representative also said Fresh Start had continued to make money from Mrs C despite being aware she's vulnerable. As Mrs C's representative asked to appeal, the complaint has been passed to me to make a decision.

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'm aware I've summarised the events surrounding this complaint in less detail than the parties involved. No discourtesy is intended by my approach which reflects the informal nature of this service. I want to assure all parties I've read and considered everything on file. I'm satisfied I don't need to comment on every point raised to fairly reach my decision. And if I don't comment on something, it's not because I haven't considered it. It's because I've focused on what I think are the key issues. My approach is in line with the rules we operate under.

I understand Mrs C's representative feels the advice to proceed with a DMP in 2006 was wrong for her circumstances. I take their point, but Fresh Start has only provided debt advice to Mrs C since 2019, after P went into administration. We've asked Fresh Start to confirm the basis on which it took over from P. And it's confirmed that it didn't assume liability for advice given by P before it went out of business.

We recently contacted Fresh Start to get a copy of the reassignment documentation completed when DMPs were transferred from P to Fresh Start. I won't quote the full details here as they're commercially sensitive. But the information provided shows Fresh Start didn't take on liability for the original DMP advice provided by P to Mrs C in 2006. I'm very sorry to disappoint Mrs C but Fresh Start isn't responsible for the advice given by P. And that means we aren't able to award compensation on the basis of the advice P gave in 2006 and subsequent years.

Mrs C's representative has told us she thinks the DMP was the wrong solution for their circumstances. From 2019, Fresh Start completed reviews of Mrs C's circumstances each year and reached the same conclusion. Each time Fresh Start reviewed Mrs C's circumstances it advised her to consider different options, including bankruptcy. Fresh Start noted Mrs C doesn't have assets and that by proceeding with bankruptcy she would be discharged from her liability for the debts included after a year.

I've looked at the annual reviews Fresh Start completed. During each review, Fresh Start asked for information about Mrs C's circumstances and finances. Mrs C disclosed personal information about her health problems and I'm satisfied Fresh Start was aware of her vulnerable situation. Whilst I understand Mrs C suffers with serious health problems, the information available shows Fresh Start took that into account when making its recommendations. And I'm satisfied Fresh Start made reasonable recommendations for Mrs C to consider other options including bankruptcy as an alternative to continuing with the DMP each time it completed an annual review.

Ultimately, Mrs C hasn't taken up Fresh Start's recommendations. Whilst Fresh Start can advise customers, it can't force them to follow the recommendations made. In place of agreement to proceed with an alternative option, I'm satisfied it was reasonable for Fresh Start to assess the affordability of the continued DMP to ensure payments remained affordable. I haven't found that Fresh Start treated Mrs C unfairly.

I'm very sorry to disappoint Mrs C and her representative, but as I'm satisfied Fresh Start dealt with the complaint fairly I'm not telling it to do anything else.

My final decision

My decision is that I don't uphold Mrs C's complaint about Fresh Start UK Debt Management Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 28 April 2023.

Marco Manente
Ombudsman