

## **complaint**

Mr W, represented by a claims management company (CMC), complains that the debt management plan (DMP) he entered into with DFH Limited (the business) was mis-sold.

## **background**

Mr W entered into a DMP with the business in 2010. He says that when he entered into the DMP he was not made aware that there were free debt advice services available. He says that had he been told about these he would not have entered into the DMP. He also says that he was not made aware of all the debt solutions available to him specifically formal debt solutions such as bankruptcy.

Mr W says that the business made an error in the calculation of his creditors as it failed to include a significant loan. He says that without this his total debt was such a small amount he would not have entered into a DMP.

The CMC says that had this loan been included at the outset it would have had a material effect on the advice and the products that Mr W would have been eligible for. It says that the business calculated Mr W's repayments as £160 per month and this did not include the loan. It says that as Mr W's disposable income was recorded as £210 per month and had repayment for the loan been included Mr W would have been insolvent.

The CMC says that Mr W entered into an individual voluntary arrangement (IVA) in May 2014 which it says shows a DMP was not suitable. It says if Mr W had been told about bankruptcy at the outset he would have been debt free in 12 months.

The business says that the DMP was suitable. It says that the earliest record it has of the loan is January 2011. It says that had the loan been included at the time the advice was given then based on Mr W's disposable income it would have taken Mr W just over five years to repay his debts. It says that during a call in April 2014, when Mr W was considering entering into an IVA, Mr W stated he wished to avoid bankruptcy and did not want to consider this as an option.

The business says that when Mr W entered into the DMP it was not obliged to inform him of the free debt services available although this was part of its sales process.

The adjudicator did not uphold this complaint. He said that that when Mr W entered into his DMP the business was not required to provide him with information about the free debt services available. Despite this he noted that the business had provided a copy of the sales process from the time which details the points advisors would cover. He said this along with the factsheet provided mentions that providers are available that offer free debt advice.

In regard to the complaint about Mr W not being made aware of all the solutions available and a major creditor being missed, the adjudicator said that the business was not told about the loan until after the initial assessment had been carried out. He said that based on the information provided he did not find that the DMP was unsuitable.

The CMC requested an ombudsman review this case. It said that the case had not been properly understood. It said the business was unwilling to provide the payment schedule which it said meant on the balance of probability that it was likely the disputed loan was included from the start. It said that if the loan was included at the start the DMP was inappropriate.

## **my findings**

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

The outstanding issues that Mr W has raised are that he was not told about the free debt services available when he discussed his options with the business and that the DMP was not a suitable debt solution for him.

In regard to the availability of free debt services, the business has said that although it was not obliged to provide this information it did provide information on all options including free debt services.

Given Mr W's DMP was set up in 2010, I do not find it surprising that the calls between Mr W and the business at that time are not available. Therefore I cannot say whether or not Mr W was signposted to the free debt services available. However, based on the regulations in place when Mr W entered into his DMP, I accept that the business was not obliged to inform him of the free debt services available.

The requirement to inform customers of free debt services was introduced after Mr W's DMP was set up and was not retrospective. Therefore, I do not uphold this part of Mr W's complaint.

The second part of Mr W's complaint relates to whether the DMP was appropriate. There is also an issue regarding the inclusion of the loan. There is limited information available and I have not seen a payment schedule. I have looked at the list of creditors and can see that this records names and amounts for all creditors apart from the disputed creditor. While the name of this creditor is listed no amount is recorded. Based on the information I have it appears that Mr W had an overdraft and a loan with this creditor however at the outset of the DMP only the overdraft was included.

While I appreciate the uncertainty regarding whether the loan should have been included at the outset, the issue is whether the DMP was suitable. I note Mr W's comments that he wouldn't have needed a DMP if the loan was not included. However, the business has said that on the initial call Mr W confirmed his income amount and the creditor amount and it was on this basis that he decided to enter into the DMP. Based on the information provided at that time, the business said the DMP would have lasted for 24 months. Considering the information provided when the DMP was being set up, I find it reasonable that a DMP was offered as an option for Mr W.

The business has said that the first record of the loan it has was from January 2011. The loan was then added to the DMP and the payments made by Mr W remained the same. When including the loan the business says it would have taken Mr W just over five years to repay his debts. I do not find this unreasonable.

Mr W continued with his DMP for a number of years and while I note he then entered into an IVA I do not find anything to suggest that the DMP was not a reasonable option for him.

The CMC has said that a formal solution would have been better and said that had Mr W been made bankrupt at the outset then he would have cleared his debts much sooner. While I note these comments, I also note the call that took place in April 2014 when Mr W made it clear he did not want to be made bankrupt. Based on this I find it more likely than not that Mr W would not have accepted bankruptcy as an option at the time his DMP was set up.

Based on the evidence I have seen I do not find that I can uphold this complaint.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 27 March 2017.

Jane Archer  
**ombudsman**