

complaint

Mr S, represented by a claims management company (CMC), complains that he was not told about the availability of free debt services while he had a debt management plan (DMP) with Gregory Pennington Limited (the business).

background

Mr S entered into a DMP with the business in 2005.

The CMC says that although there was not a requirement at that time for the business to inform Mr S of the free debt services available, subsequent regulations came into force while Mr S' DMP was in operation that required the business to provide this information.

The business initially noted that because Mr S entered into a DMP before April 2007 this complaint fell outside the jurisdiction of the Financial Ombudsman Service.

The adjudicator explained that this service only gained jurisdiction over these cases in April 2007. He noted that Mr S entered into the DMP before this date. However he said that as Mr S' DMP continued beyond April 2007 we could consider the administration of the DMP after this date.

The adjudicator said that he had looked at the guidance from 2014. He said that this set out that a debt management firm was required to inform a customer about free debt management services in its first written or oral communication with the customer. He said that Mr S entered into the DMP in 2005 and he did not find a continuing obligation to inform Mr S of the free services.

The adjudicator did not uphold this complaint.

The CMC said that while Mr S had the DMP in place further guidance was released. It said that the 2012 guidance referred to customers being referred to the free debt services where appropriate. However it said that while some customers needed to be referred, the expectation of the guidance was that all customers should have been signposted to the free debt services available.

The CMC also referred to other guidance that it said supported the need for Mr S to be informed of the free debt services.

my findings

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

Mr S entered into a DMP before April 2007. This service gained jurisdiction over these cases in April 2007 and so I cannot consider anything to do with the set up of Mr S' DMP or issues relating to events prior to April 2007.

Mr S' DMP continued beyond April 2007 and as the adjudicator has explained, I can consider the management of the DMP from that date.

Mr S has not raised any concerns about the management of his DMP. However he has said that he was not made aware of the free debt services available.

I note the CMC's comments that when Mr S entered into the DMP the guidance did not require the business to provide information on the free debt services available. I understand the comments the CMC has made and the references to the various pieces of regulation post 2007.

However, having looked at the guidance I do not find that was a requirement for the business to inform Mr S of the free debt services available. The rules introduced in 2014 required a business to inform customer offered debt services in its first communication with the customer.

Overall, while I appreciate the comments the CMC has made, I do not find that the business has done anything wrong.

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 S to accept or reject my decision before 22 December 2016.

Jane Archer
ombudsman