

complaint

Mr F complains that Gregson and Brooke Ltd misrepresented a Debt Management Plan (DMP) he entered into with it.

background

Mr F says he understood that Gregson and Brooke would negotiate reduced settlements with his creditors and then distribute payments to them. However, he says that it has only made token payments to his creditors during the time (around a year) he has been in the DMP. He says that Gregson and Brooke did not make it clear that the debt reduction stage would continue indefinitely, and it has taken more management fees than he expected.

Our adjudicator recommended this complaint be upheld. He was not satisfied that Gregson and Brooke had clearly and transparently explained to Mr F how the plan would work and the associated costs. He recommended that it refund all payments Mr F had made to it minus the amount it has paid to his creditors, plus simple interest. He also recommended it pay Mr F £100 for the distress and inconvenience it has caused him.

Gregson and Brooke has not responded to the adjudicator's recommendation. So this matter has been referred to me for final determination.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where evidence is incomplete or matters are unclear I make my findings on the balance of probabilities – which is to say, what I find is most likely to be the case based on the available evidence and the wider surrounding circumstances.

Account statements from Gregson and Brooke show that Mr F has paid it £1,800. Mr F does not dispute this figure. However, the statement indicates that most of this money (except for £183.12 which Gregson and Brooke says has been paid to creditors) has been retained as fees while it challenged the enforceability of Mr F's debts - while a small amount has been kept on his client account.

Mr F says that he thought his debts would be challenged early in the plan, but understood that most of his money would then be distributed to creditors. He says that his debts have not reduced in the way he was led to believe.

I find Mr F's submissions credible. It appears that Gregson and Brooke put him in a long term debt reduction plan of an indefinite duration - but I am not persuaded this is the type of plan he wanted or expected. From the information provided (including the terms and conditions of the plan) I am not satisfied that the features of the plan were clearly and transparently explained to Mr F in accordance with the Office of Fair Trading's debt management guidance.

In particular, I am not satisfied that Gregson and Brooke clearly explained at the outset the specific nature of the services supplied, and the likely or anticipated cost of this. Gregson and Brooke has retained a large portion of Mr F's payments for debt reduction - yet its terms do not clearly explain how long this process lasts. Furthermore, although the contract does outline the fee structure I do not find this clearly outlines the likely overall cost for the service.

If it had done so, I am not satisfied that Mr F would have gone ahead with the plan. I also do not find that Gregson and Brooke clearly explained the potential consequences of stopping regular payments to creditors while it negotiated with them.

Mr F does not dispute that he thought some of the plan would involve Gregson and Brooke challenging his debts for a fee. However, I do not consider there to be persuasive evidence to satisfy me that Gregson and Brooke has done work for it to justify keeping any of the management fees it has taken. And Gregson and Brooke has failed to respond to this service to dispute this. In this instance I consider it fair and reasonable that Gregson and Brooke refund Mr F all the payments he made to it, totalling £1,800, minus what it has paid to his creditors. Account statements show that Gregson and Brooke has paid £183.12 token payments to Mr F's creditors– which Mr F has not disputed.

I can see from Mr F's correspondence that he is upset and frustrated by Gregson and Brooke's failure to fully explain the nature of the plan to him from the outset. I also consider that he has been caused inconvenience by it failing to respond to his complaint with this service. Therefore, I consider it fair and reasonable that Gregson and Brooke pay Mr F £150 compensation for the distress and inconvenience it has caused him.

my final decision

My final decision is to direct Gregson and Brooke Ltd to:

- refund all payments Mr F made to it under the DMP totalling £1,800, minus £183.12 it has already distributed to his creditors;
- pay interest at 8% per annum on the refunded payments from the date each payment was made to the date of settlement; and
- pay Mr F £150 compensation for the distress and inconvenience it has caused him.

If Gregson and Brooke wishes to deduct tax from the interest element of my award it should provide Mr F with a certificate of tax deduction so he may claim a refund, if appropriate.

Mark Lancod
ombudsman