

complaint

Mr H, who is represented by a claims management company (CMC) says Debt Advisory Line Limited (Debt Advisory Line) gave him unsuitable and misleading advice when he entered into a debt management plan.

background

In 2012 Mr H entered into a debt management plan with Debt Advisory Line. Through his CMC he's raised concerns about this – in particular:

- he wasn't told the same or similar services could have been provided free of charge;
- he wasn't told creditor action could continue;
- payments to his creditors weren't made frequently;
- he wasn't made aware of the impact on his credit rating of reducing payments to his debts;

Our investigator didn't uphold the complaint. He thought Mr H would have been aware creditor action could continue and his credit rating might be affected. The records showed regular payments had been made to Mr H's creditors. And he didn't feel there was a requirement on Debt Advisory Line to tell him about free services.

Mr H's CMC didn't agree. It said when Mr H took out his plan the guidance at the time meant he should have been told about free services. And that should in any case have happened after 1 April 2014 when the rules changed. So I need to reach a final decision.

my findings

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

As the only point of dispute here is whether Mr H should have been told about free debt advice services I'm only going to deal with this aspect of the complaint in my decision.

I appreciate Mr H's CMC believes the guidance in force in 2012 means this should have been done. But I don't agree. The relevant guidance said a referral to free debt advice should be made where appropriate to do so. That would be the case if there were priority debts and/or an immediate emergency, or if the debtor didn't have enough disposable income to afford the fees and their monthly plan payments. However, from what I've seen of Mr H's circumstances I don't think that applied here. Because of that I don't think Debt Advisory Line did anything wrong by not telling Mr H about free services.

The rules in place after 1 April 2014 say the availability of free debt advice services should be made in a debt management firm's *"first written or oral communication with the customer"*. But in this case Mr H's DMP was set up prior to this regulation being in place and he'd been in that plan for several years. So I don't think Debt Advisory Line has done anything wrong here as he received his first written or oral communication from it before 1 April 2014. It also looks like Debt Advisory Line did advise Mr H there were sources of free debt advice when it wrote to him in January 2015 and he continued to use its services.

my final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 January 2017.

James Park
ombudsman