

## **complaint**

Mr P complains that Harrington Brooks (Accountants) Limited, trading as Harrington Brooks Debt Management, ("HB"), didn't provide him with satisfactory advice when he took out a debt management plan ("DMP") with it. The complaint is brought to this service on Mr P's behalf by a claims management company ("CMC"). But for ease, I shall refer below to all actions being taken by Mr P unless stated otherwise.

## **background**

Mr P entered into a DMP with HB in December 2013. His main complaint is that he wasn't made aware that the same or a similar service could have been provided free of charge or about the availability of free and impartial advice.

HB said that Mr P applied for the DMP online through a third party ("T"). So, it didn't sell the DMP to Mr P. But after its sale, T passed the DMP to HB for it to manage the DMP.

The adjudicator didn't recommend that the complaint should be upheld. She didn't think that HB had acted unfairly. As HB didn't set up the DMP, she couldn't be certain about what information Mr P was given at the time by T. She also referred to the Office of Fair Trading's ("OFT") Debt management (and credit repair services) guidance from March 2012 ("the 2012 Guidance") which explained that "where appropriate" a business could give information about debt advice from not-for-profit organisations. But it wasn't appropriate in this case.

The CMC disagreed and referred to the provisions of the 2012 Guidance and the OFT's Debt management guidance dated September 2008 ("the 2008 Guidance"). The CMC also referred to the OFT's Debt Management Guidance compliance review dated September 2010 ("2010 Review") and said that the expectations of how the 2008 Guidance should have been applied were mentioned in the 2010 Review. It believed that it was clear from the OFT's wording within the 2008 Guidance that fairness and the customer's best interests were the overriding principle. And it said that the 2010 Review suggested that this fairness was expected to extend to making customers aware of free services and the availability of free advice.

## **my findings**

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

I can see that when Mr P entered into the DMP in December 2013 that T and HB were obliged to comply with the requirements of the 2012 Guidance. The 2012 Guidance specifically said that a referral to free debt advice should be made where appropriate to do so (Clauses 2.5d and 3.23g of the 2012 Guidance). The 2012 Guidance said that this would be the case if there were priority debts and/or an immediate emergency, or if Mr P didn't have enough disposable income to afford the fees and his monthly plan payments. But I can see that this didn't appear to be the case in Mr P's circumstances. I can see that his debts weren't priority debts and there didn't appear to be an immediate emergency. And he was able to pay £73.85 to HB every four weeks from December 2013 until February 2015. Because of this, it appears to me that the fees and monthly plan payments weren't unaffordable. So, in Mr P's circumstances, I don't think that HB acted inappropriately in not referring him to fee-free services.

The CMC also referred to the Consumer Protection from Unfair Trading Regulations (“the CPRs”) of 2008, under which it suggested that the failure to refer to fee-free services was an unfair omission. But I believe the specific industry guidance on debt management is more relevant here than the CPRs.

The CMC has also referred to the 2010 Review. The recommendations in the 2010 Review were taken into account in the 2012 Guidance. But, as shown above, in Mr P’s circumstances, I don’t think that HB was obliged under the 2012 Guidance to refer him to fee-free services.

So, overall, I don’t think that HB has done anything wrong in rejecting Mr P’s complaint.

**my final decision**

My decision is that I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr P to accept or reject my decision before 12 December 2016.

Roslyn Rawson  
**ombudsman**