

complaint

Mr L complains that Bournes Limited (trading as Bournes Debt Solutions) failed to administer his debt management plan correctly.

background

Mr L entered a "*debt reduction plan*" with Bournes in March 2009. He paid Bournes £135 per month from April 2009 until November 2012 (£5,400 in total). He says that Bournes misled him about how much of his monthly payments it would retain as fees, failed to distribute payments to his creditors and failed to keep him updated about progress towards reducing his debts.

Our adjudicator upheld the complaint. In the absence of any evidence from Bournes, he concluded that it had failed to distribute the vast majority of Mr L's payments to creditors. He recommended that it refund all monies not paid to Mr L's creditors, plus interest, and pay him £150 to reflect the distress and inconvenience this matter has caused him.

Bournes did not respond to our adjudicator's letters so the matter was referred to me for review.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I uphold the complaint.

Despite repeated requests, Bournes has not replied to this Service's requests for information therefore I have made my decision based on evidence provided by Mr L and his creditors.

Mr L has provided a copy of the agreement he signed with Bournes. It does not contain any information about Bournes' fees and I have seen no evidence that these were explained to Mr L elsewhere. Nor does the agreement explain that Mr L's creditors were not obliged to freeze interest on his debts. (The agreement simply says Bournes "*will contact your creditors to... stop interest and charges being added to your account*"). Finally, the agreement says that Bournes will "*keep you informed of progress by sending you monthly statements outlining all activity on the account*". Mr L says he received only 20 statements during the three and a half years he was in the plan.

We have obtained account details from seven of Mr L's 12 creditors. Having examined this information, I am satisfied that Bournes distributed only £857.25 to those creditors. Bournes has not provided evidence that it made any other payments on Mr L's behalf.

Having carefully considered the evidence provided, I am satisfied that Bournes failed to comply with the Office of Fair Trading (OFT)'s debt management guidance. In the circumstances of this complaint, I find no reason why it should be entitled to retain any of the money taken from Mr L as fees. It follows that Bournes should refund the difference between the money taken from Mr L (£5,400) and the money we know it distributed to his creditors (£857.25). This comes to £4,542.75. It should add interest to this amount from the date Mr L left the plan.

I also find that Bournes has caused Mr L distress and inconvenience by failing to administer the plan correctly and by failing to respond adequately to his complaint. Having considered the general levels of awards this Service makes in this area, I assess a fair award at £150.

Mr L is in an Individual Voluntary Arrangement (IVA). His IVA supervisor has confirmed that *“any monies awarded must be sent directly to us for the benefit of [Mr L’s] creditors”*. As such, Bournes should pay my award to the IVA supervisor. It should contact the IVA supervisor directly to arrange this. Details are on the letter attached to this decision.

my final decision

My final decision is that I uphold this complaint and order Bournes Limited (trading as Bournes Debt Solutions) to:

- refund £4,542.75 to Mr L, plus interest calculated at 8% simple per year from 1 December 2012 to the date of settlement; and
- pay Mr L £150 to reflect the distress and inconvenience this matter has caused him.

If Bournes considers that tax should be deducted from the interest element of my award, it should provide Mr L with the appropriate tax deduction certificate so that he is able to claim a refund if appropriate.

As noted above, this award must be paid directly to Mr L’s IVA supervisor.

Simon Begley
ombudsman