

complaint

Mrs R, represented by a claims management company (CMC), complains that Harrington Brooks (Accountants) Limited (the business) mis-sold her a debt management plan (DMP).

background

Mrs R entered into a DMP in July 2013. The DMP was set up by another company and then passed to the business to be managed.

Mrs R says that the business did not make her aware of the free debt services available or of the impact the DMP would have on her credit file. Mrs R also says that distributions to her creditors were not made frequently.

The business says that as it did not set up the DMP it could not be held responsible for complaints relating to that. It says that when the DMP was passed to it a welcome call was conducted on which Mrs R confirmed she had read the documents and signed the letter of authority. It says that the regulations in place at the time Mrs R entered into her DMP did not require it to inform her of the free debt services available. However, it says that it sent a communication to its clients in March 2014 explaining that it was to become regulated by the Financial Conduct Authority on 1 April 2014. It says this communication referred clients to its website which had information about the free debt services available.

The business acknowledged that a few of the distributions were made outside of the five working day period and says it asked that Mrs R should provide information of any charges incurred due to this. It says no information has been provided in regard to this part of the complaint.

The CMC says that the business was required to inform Mrs R of the free debt services available following the introduction of the new regulations in April 2014. It says that the information provided by the business which involved a letter signposting Mrs R to an online portal which she would be required to scroll down to see the information regarding free service, was not sufficient.

The adjudicator did not uphold this complaint. He said that based on the regulations in place at the time the business took over the DMP it was not required to inform Mrs R of the free debt services available. He said that the requirement was introduced in April 2014 but this was not retrospective.

The adjudicator said that the business did not set up the DMP and that it was the responsibility of the company that set up the DMP to inform Mrs R of the impact the DMP could have on her credit file. He noted the comment about payments not being made and said the business had admitted to seven payments being made late. He said this was an administration error and did not mean the DMP was mis-sold. He said that the issue with the late payments would only be relevant if it had caused Mrs R a financial loss.

The CMC did not accept the adjudicator's view. It said that the DMP was ongoing beyond April 2014 and that the business was required to bring the DMP into line with the new regulations. It said this meant informing Mrs R at that time of the free debt services available.

my findings

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

There are three parts to this complaint. One is that payments were not made frequently. The business has accepted that some payments were not made within the required timeframe and requested that Mrs R provides it with evidence of any charges or costs that arose due to the error. I understand that no further information has been provided. If Mrs R suffered a financial loss due to the late payments made then I find it reasonable that she should be compensated for this, however I have no evidence to suggest that has happened.

The second part of the complaint relates to Mrs R not being told about the impact the DMP would have on her credit file. In this case the business did not set up the DMP and I have not seen copies of the information provided to Mrs R as part of that process. However the business has said that Mrs R confirmed on the welcome call it had that she had read the documents provided. I find it reasonable that the business accepted Mrs R had the information she needed to make the decision to enter into the DMP which was then passed to it to manage.

The key part of this complaint relates to whether Mrs R was given the required information about the availability of free debt services. Mrs R entered into the DMP in 2013. At that time there was not a requirement on the business to inform her about the free debt services available.

The requirement was introduced in 2014 and I can see that Mrs R's DMP was ongoing at that time. However the requirements introduced at that time were not retrospective.

I note the business' comment about the communication it provided about the changes that would occur in April 2014 and that this communication signposted Mrs R to its website. The website then had information about the free debt services available.

Overall, 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 Mrs R to accept or reject my decision before 17 February 2017.

Jane Archer
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