

complaint

Mrs H complains about the advice that she received from Foundation for Credit Counselling, trading as Stepchange, about her debt relief order. She is being helped with her complaint by a representative.

background

Mrs H contacted Stepchange in 2014 for help in dealing with her debts. A debt relief order was approved for Mrs H in March 2014. Mrs H contacted Stepchange – with her representative – in July 2015 and said that she had a £3,684 overpayment of Employment Support Allowance from the Department of Work and Pensions dating back to 2012. So the representative said that a debt relief order wasn't a suitable recommendation to have been made to Mrs H because her debts exceeded £15,000. Mrs H wasn't satisfied with Stepchange's response so complained to this service.

The adjudicator didn't recommend that this complaint should be upheld. She said that there was no dispute that Stepchange was unaware of the true outstanding balance of Mrs H's benefit overpayment when the debt relief order was approved. Stepchange's records show that Mrs H gave some information about the overpayment before the order was submitted – but she didn't reveal the full extent of the overpayment. The adjudicator had spoken with the official receiver's office which confirmed that it's the debtor's responsibility to ensure that the creditor information is accurate. And there was nothing to suggest that Stepchange was aware – or ought to have been aware - that Mrs H was a vulnerable individual. The adjudicator couldn't see that Mrs H's difficulties had been caused by any error made by Stepchange. So she concluded that it wouldn't be fair or reasonable to hold it responsible for the situation. She said that she hadn't reviewed anything that had happened after the debt relief order was entered since it's not within the jurisdiction of this service to do so.

Mrs H's representative – on her behalf - has asked for this complaint to be considered by an ombudsman. The representative says, in summary, that:

- Stepchange's procedures are inadequate for verifying benefit overpayment debts;
- if Stepchange was unable to verify the accuracy of the balance it ought to have made sure the client did so or referred the case to another agency who would be able to confirm the amount of overpayment;
- although Mrs H has derived some benefit from the debt relief order as it has cleared her other debts, the benefit overpayment was the reason she sought advice from Stepchange; and
- if a debt relief order hadn't been used, Mrs H would either have gone bankrupt or set-up a payment arrangement with the Department of Work and Pensions – either of which would've cleared the debt and avoided the stress she is currently experiencing.

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 sympathise with Mrs H for the difficulties that she is experiencing.

We offer an informal dispute resolution service. We try to resolve complaints by customers about financial businesses by looking at what we consider to be fair and reasonable in the circumstances. We have no regulatory or disciplinary role over those businesses so we're

unable to punish a business for anything that it's done wrong or to require it to change the way that it runs its business.

Stepchange's records show that Mrs H had provided information about her benefit overpayments before the application for the debt relief order was made. The application included two payments due to the Department of Work and Pensions – one for £706 and the other for £205.80. Mrs H had also declared to Stepchange that the information that she had provided was complete and accurate. And it seems as though the full extent of Mrs H's benefit overpayment didn't become apparent until mid 2015 - more than a year after Mrs H's debt relief order was approved.

I'm not persuaded that there was any requirement for Stepchange to do more to investigate Mrs H's benefit overpayment in March 2014. And I find that it was fair and reasonable in these circumstances for it to rely on the information that had been provided by Mrs H. So I find that it wouldn't be fair or reasonable for me to require Stepchange to reimburse any money to Mrs H – or to take any other action in response to her complaint. And I'm unable to require it to change the way that it conducts its business.

my final decision

So my decision is that I don't uphold Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 5 September 2016.

Jarrold Hastings
ombudsman