

## **complaint**

Mrs H, represented by a claims management company (CMC), complains that Baines & Ernst Limited (the business) mis-sold her a debt management plan (DMP).

## **background**

Mrs H entered into a DMP, set up and managed by the business, in 2012.

Mrs H says that although she was told what would happen to her credit file after the DMP, she was not told about the negative effect on her credit rating during the DMP. She also says that she was not told about all the fees that would be charged.

Mrs H says that she was told that the interest would be frozen on her debts but this did not happen immediately. She also says that she was not told about the availability of debt services for free and that had she been made aware of these she would not have entered into a fee-charging DMP.

The business says that the distributions were made to Mrs H's creditors within five days of it receiving the full payment. It says that the fees were explained to Mrs H when it first spoke to her in April 2012 and that this information was also included in the information sent to Mrs H after this call. It also says that information of the impact on Mrs H's credit file was given in the call and contained in the information sent to her.

In regard to interest being frozen, the business says that it made Mrs H aware this could not be guaranteed.

The business also says that it was not required to refer Mrs H to the free debt services available.

The adjudicator did not uphold this complaint. She said that the guidance in place when Mrs H entered into her DMP did not require the business to inform her of the free debt services available.

The adjudicator said that the terms and conditions provided to Mrs H when she entered into the DMP set out that the interest and charges were not guaranteed to be frozen and also set out the fees that would be charged.

In regard to Mrs H's credit file the adjudicator said that as Mrs H had taken out a DMP this showed she may have already had damage to her credit file that would have only been rectified by her repaying her debts.

The CMC said that the 2012 Office of Fair Trading guidance required customers to be referred to the free debt services available where appropriate. However it said that the expectation was that all customers should be signposted to these services.

## **my findings**

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

Mrs H has complained both about the management of her DMP and the information provided to her.

I have looked at the information provided by the business in regard to payments to Mrs H's creditors. I have no specific information about any missed payments. Based on the information I have seen I do not find that Mrs H's DMP was mis-managed.

Mrs H says that she was not informed of the fees; that interest may not be frozen; or that her credit rating could be affected by the DMP. I have looked at the welcome brochure and the terms and conditions that were sent to Mrs H and I find that these contain the information she needed. Mrs H decided to enter into the DMP after receiving this information.

The final issue raised on Mrs H's behalf regards information about the free debt services available.

Mrs H entered into her DMP in 2012. The relevant guidance in place stated that where appropriate customers should be referred to not-for-profit organisations. I understand the comments made by the CMC that all customers should have been signposted to the free debt services. However I do not find this was a requirement at that time Mrs H entered into her DMP and based on the information I have seen, I do not find that the business did anything wrong.

Because of the above, I do to uphold this complaint.

### **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 H to accept or reject my decision before 21 December 2016.

Jane Archer  
**ombudsman**