

complaint

Mr and Mrs N are unhappy that their debt management plan ("DMP") with Independent Debt Management (IDM) Limited has not paid off their debts as promised. Mr and Mrs N have since separated, but they have agreed to bring this complaint together.

background

Mr and Mrs N had a number of debts and turned to IDM for help in 2009. It promised to help them pay off their debts in a way they could afford. Mr and Mrs N say the plan they agreed was for 5 years. They were told they'd be debt free at the end of it.

In early 2015, Mrs N tried to get in touch with IDM to find out what has happening with the plan. IDM sent Mrs N a letter saying it had stopped trading and would return any money it held on her behalf.

Mrs N soon realised IDM hadn't paid off her debts (or those of Mr N). But she was unable to get any response from IDM about this. So, Mr and Mrs N asked us to investigate.

Our adjudicator recommended that Mr and Mrs N's complaint should be upheld because IDM hadn't explained how it would distribute money to their creditors. Nor did it keep Mr and Mrs N updated. The adjudicator worked out the difference between what Mr and Mrs N paid to IDM and what IDM had probably passed on to their creditors, less IDM's fees. She said IDM should refund the difference to Mr and Mrs N.

I issued my provisional decision in February. I explained that I was minded to depart significantly from the adjudicator's original calculations. This was because we'd received more information from Mr and Mrs N's creditors, which meant we could make a more accurate assessment of what IDM had distributed.

Mrs N has replied to say she is happy with my provisional findings, apart from querying whether I'd taken into account charges applied by one of her creditors. Mr N has not made any further representations.

IDM has not responded.

my findings

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

As no new information has been provided, my findings remain the same. I repeat them below, addressing Mrs N's comments where appropriate.

In 2009, Mr and Mrs N had debts of over £15,000 with several creditors when they were introduced to IDM.

Although it hasn't been possible to get the information we requested from all of Mr and Mrs N's creditors, I'm satisfied that their debts were still outstanding in 2015. Mrs N has sent in copies of letters she sent to some of her creditors offering them partial payment in full and final settlement of her outstanding debts. She has also included copies of two of the cheques. Mr N has done the same.

I have also looked at Mr and Mrs N's bank statements and can see that they maintained regular payments of £195 a month from May 2009 to February 2014, apart from a couple of months when Mrs N missed hers.

The statements we've been sent show that IDM distributed most payments to these creditors between February 2009 and February 2015, although there were some gaps.

Without the information from Mr and Mrs N's other creditors, it isn't possible to say with certainty whether IDM followed a similar pattern of payment across the board. So, my findings are based on what I think is likely to have happened in light of the payments made to the creditors who have sent us statements.

I think it's reasonable to assume that IDM probably sent out payments at the same time to all creditors. So, in making my award, I have assumed that IDM distributed and missed payments consistently.

Mr and Mrs N have also sent us a copy of the schedule prepared by IDM, which sets out the monthly payments it offered to their creditors and the amount the creditors accepted. Where the creditor accepted a lower amount than that offered by IDM I have relied on the creditors' statements and used those amounts in my calculations. Where we have no evidence of what the creditor accepted, I have assumed that IDM paid what they offered.

I have also taken into account that Mr and Mrs N didn't make payments to IDM from February 2014, but IDM continued to make payments to their creditors until February 2015.

On this basis, I have calculated that Mr and Mrs N made payments totalling £11,505.00 to IDM and IDM distributed payments totalling £6,818.09.

IDM was entitled to charge a fee of 5% of Mr and Mrs N's monthly contribution. I have calculated this as £507 (52 payments at 5% of £195). I will allow IDM to keep this fee. However, there is still a shortfall of £4,179.91 for which IDM has been unable to account.

Mrs N says when she last spoke to IDM she was told a 'pot of money' had been saved which IDM was going to use to pay her creditors. Mrs N hasn't been able to find out what happened to this 'pot'. But I am satisfied that it wasn't used to pay her creditors, as Mr and Mrs N have shown that their debts were still outstanding in 2015.

Mrs N also believes that one of her creditors continued to apply interest after the account was put in the hands of IDM and is unhappy about this. But this creditor has confirmed that it didn't add any interest or charges after January 2009. So, my calculations haven't changed.

On balance, I don't think that IDM made it clear to Mr and Mrs N how it would help them clear their debts and how the DMP would work. I accept that Mr and Mrs N understood they would be debt free after five years, but this wasn't the case.

I also think there is enough evidence for me to find that IDM didn't administer the plan well. There were a number of missed payments. And, it doesn't look like IDM updated Mr and Mrs N about the way it was dealing with their creditors. Therefore, it didn't keep to the February 2009 service agreement.

In all the circumstances, I think it's fair and reasonable for IDM to refund the money it received from Mr and Mrs N that it can't demonstrate it sent to their creditors (less its fee for the months it distributed). To this it must also add simple interest at the gross rate of 8% per year calculated as set out below.

So as not to overcomplicate the interest calculation, interest should be calculated from the beginning of February 2015, as I find that it's unlikely that any payments were distributed after that date, until the date the refund is paid. I think this is fair overall.

my final decision

My final decision is that Independent Debt Management (IDM) Limited should –

1. refund £4,179.91;
2. add gross interest at 8% simple per year on the above amount from 1 February 2015 until the date the refund is paid; and
3. pay total compensation for distress and inconvenience of £300.

IDM should pay 50% of the total to Mrs N and 50% to Mr N.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs N to accept or reject my decision before 15 April 2016.

Athena Pavlou
ombudsman