

complaint

Mrs B complains that Baines & Ernst Limited ("BEL") hadn't provided her with satisfactory advice about her debt management plan ("DMP"). The complaint is brought to this service on Mrs B's behalf by a claims management company ("CMC"). But for ease, I shall refer below to all actions being taken by Mrs B unless stated otherwise.

background

Mrs B entered into a DMP with BEL in December 2013. She said that BEL:

- didn't tell her that she could have received the same service for free; and
- didn't conduct a review of her account to ensure the plan and payments were appropriate.

The adjudicator didn't recommend that the complaint should be upheld. She noted that an annual review of Mrs B's account had been carried out in November 2014. She also didn't think that the Office of Fair Trading's ("OFT") guidance at the time made it compulsory to make customers aware of alternative fee free options. She noted that these options were to be made available where appropriate to do so, and that in this case BEL had said that it wasn't appropriate.

The CMC disagreed and responded to say, in summary, that it believed that the adjudicator hadn't correctly interpreted the OFT's guidance. It referred to the provisions of the OFT's Debt management (and credit repair services) guidance from March 2012 ("the Guidance") which was applicable at the time Mrs B entered into the DMP. In particular, it said that there was an expectation in the Guidance that a customer should be referred to fee-free services in all circumstances.

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 only propose to deal with the main issues raised by the CMC in its response to the adjudicator's view in my decision.

I can see that when Mrs B entered into the DMP in December 2013, the Guidance specifically said that a referral to free debt advice should be made where appropriate to do so (Clauses 2.5d and 3.23g of the Guidance). The Guidance said that this would be the case if there were priority debts and/or an immediate emergency, or if Mrs B didn't have enough disposable income to afford the fees and her monthly plan payments. But I can see that this wasn't the case in Mrs B's circumstances. I can see that she initially had seven debts when she arranged the DMP. Whilst one of Mrs B's debts was described as for utility company arrears, I note from BEL's terms and conditions that by entering into the agreement, Mrs B confirmed that her debts weren't for current utility bills. So, it doesn't appear that Mrs B's debts were priority debts. I also note that Mrs B's income was £1,052, her expenditure was £902 and her monthly disposable income was £150. She was able to make around 24 payments of £150 to BEL before she terminated her DMP with it. Because of this, it appears to me that the fees and monthly plan payments weren't unaffordable. So, in Mrs B's circumstances, I don't think that BEL acted inappropriately in not referring her to fee-free services.

So, it follows that I don't find that BEL has done anything wrong in rejecting Mrs B's complaint.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 31 October 2016.

Roslyn Rawson
ombudsman