

complaint

Miss M, represented by a claims management company (CMC) says that the debt management plan (DMP) she entered into with Gregory Pennington Limited (the business) was mis-sold.

background

Miss M entered into a DMP with the business in 2009. She complains that at that time other debt solutions would have been better for her but that these were not discussed. She also complains that the business did not inform her of the free debt services that were available and has raised concerns about the other information provided to her and the management of her DMP.

Miss M says that had she been given information about the free debt services and other solutions available to her then she would not have entered into the DMP with the business.

The business says that Miss M entered into a DMP in March 2009 and this was completed in October 2013 with her debts having been paid in full. It says that the DMP was recommended after it carried out an assessment of Miss M's situation. It says that because she had overcommitted and had multiple debts it found a DMP a suitable option for her. It says that sequestration which was suggested as a more suitable alternative by the CMC would have imposed a number of restrictions on Miss M and should have been seen as a last resort. It says that as Miss M was able to maintain her payments and clear her debts through the DMP it was a suitable solution.

The business says that Miss M was provided with clear information about its fees and the actions that creditors could take. It says that Miss M signed its client author form in February 2009 and agreed to its terms and conditions. It says that when Miss M set up her DMP the regulations did not require it to inform her of the free debt services available.

In regard to distributions, the business says that Miss M's distributions to her creditors were made.

The adjudicator did not uphold this complaint. She said that the DMP was appropriate and that it was reasonable that this was offered to Miss M.

The CMC did not agree with the adjudicator's view. It said that Miss M was insolvent when she agreed to the DMP and that other options such as sequestration would have been more suitable. It said that Miss M was not provided with information about all the options available to her.

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 have looked at the information provided by the business and listened to the introduction call between the business and Miss M. Based on this I find that information was provided to Miss M about creditors not being required to freeze interest and charges or cease recovery action. She was also provided with information about the impact on her credit file and the fees.

Overall, I find that Miss M was provided with the information she needed to make an informed decision on whether or not to enter into the DMP.

On the call an assessment was carried out on Miss M's income and expenditure and she confirmed the amounts outstanding with her creditors. These amounts were recorded by the business and are different to the amounts noted by the CMC. Based on the information provided I find that the business did carry out an assessment of Miss M's financial situation and made a recommendation based on this.

The CMC has said that sequestration would have been a better option for Miss M. I understand the points it has made. However, based on the information I have seen, I find that the more informal approach of a DMP was a reasonable recommendation. Miss M was able to maintain her payments towards the DMP and became debt free in October 2013.

Concerns were also raised about the management of Miss M's DMP. I have looked at the statement of account for Miss M and I do not find anything to suggest Miss M's creditors were not paid in a timely way.

The CMC also raised concerns that Miss M was not informed about the free debt services available. Miss M entered into the DMP in 2009. At that time the business was not required to inform Miss M of the debt free services available. As mentioned above, Miss M was able to maintain her payments towards the DMP. So while I appreciate the comments the CMC has made, I do not find that the business did anything wrong by not informing Miss M of the freed debt services available.

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 Miss M to accept or reject my decision before 20 February 2017.

Jane Archer
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