

complaint

Mr C and Miss B complain that 123 Debt Solutions Ltd mis-sold them a debt management plan. The complaint is brought on their behalf by a claims management company.

background

Following a discussion about their financial situation in June 2012, 123 Debt Solutions recommended Mr C and Miss B enter into a debt management plan ("DMP") to repay their debts. The claims management company says this was not the best solution for them and that they weren't aware of the fees they'd be charged.

Our adjudicator did not recommend that the complaint should be upheld. She concluded that the recommendation to enter into a DMP wasn't unreasonable given the information Mr C and Miss B provided at the time.

Mr C and Miss B didn't agree. The claims management company replied on their behalf saying, in summary, that:

- Disability Living Allowance shouldn't have been included as income because it's a benefit that should only be used to pay for additional expenditure needed as a result of the individual's disability.
- 123 Debt Solutions failed to handle the complaint in line with its regulatory obligations.

my findings

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

Mr C and Miss B contacted 123 Debt Solutions in 2012 because they couldn't manage to pay their creditors each month. They told 123 Debt Solutions that they didn't want to enter into an involuntary financial arrangement or bankruptcy. They were asked to give details of their income and expenditure and this showed they had more than £150 disposable monthly income. This was too high for them to qualify for debt relief orders. Given the circumstances and the financial position at the time, I don't think it was unreasonable for 123 Debt Solutions to recommend a debt management plan.

123 Debt Solutions included disability living allowance as part of Mr C and Miss B's monthly income. I agree with the claims management company that this benefit is to pay for the additional expenses caused by the individual's disability. But any such expenses would have been included monthly expenditure figure Mr C and Miss B provided, and there's no reason why any sum left over couldn't be used towards paying their creditors.

123 Debt Solutions said it would have made sure Mr C and Miss B were aware of the fees it would charge. And these were set out in the terms and conditions of the agreement. 123 Debt Solutions also told us that, before Mr C and Miss B signed the agreement, they phoned it to discuss the fees in more detail. As a result of this call, one of the fees was waived as a gesture of goodwill. So I find that Mr C and Miss B were made fully aware of the fees involved. At the time there was no obligation on 123 Debt Solutions to tell Mr C and Miss B that other, fee free arrangements were available.

123 Debt Solutions didn't reply to Mr C and Miss B's complaint when the claims management company contacted it in October 2015 and it's not clear why. A final response letter wasn't sent until after the complaint had been referred to this service. Whilst this delay would've been frustrating, in all likelihood the complaint would have been referred to this service even if a response had been sent sooner and I don't find that the lack of an earlier reply changes the overall outcome of this complaint.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Miss B to accept or reject my decision before 28 October 2016.

Elizabeth Dawes
ombudsman