

complaint

Mr F and Mrs Q have complained about how Debt and Claims Limited managed their debt management plan. They're particularly concerned that the payments they made were not being passed on to their creditors, and that their debt grew rather than decreased.

background

Mr F and Mrs Q had three main creditors and were unable to pay their debts. In 2013 Debt and Claims Limited under one of their trading names offered Mr F and Mrs Q an alternative debt management plan. This involved them paying £8,000 upfront and monthly payments of nearly £445 between June 2013 and June 2014. This meant that they would be free of debt within five years, as long as their creditors agreed with the terms negotiated by Debt and Claims Limited.

Only small amounts from the money Mr F and Mrs Q paid Debt and Claims Limited were passed on to their creditors. In June 2014, Debt and Claims Limited ceased any business managing debt management plans and informed Mr F and Mrs Q. They also told them that they held £982.10 in their account and sent them a cheque. Mr F and Mrs Q felt that this was extremely unfair and brought a complaint to the ombudsman service.

Our adjudicator was never able to get Debt and Claims Limited to respond to our questions. Therefore he approached Mr F and Mrs Q's creditors to build a credible picture of what had happened. His assessment was that Debt and Claims Limited had collected more than £5,800 from Mr F and Mrs Q on top of the initial fee. And had only paid out a maximum of £1,760 to their creditors. As he felt that Debt and Claims Limited had never properly explained the agreement that Mr F and Mrs Q had entered into, he thought Debt and Claims Limited should repay all fees and money that had not gone to creditors along with £250 for the distress they had caused.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive, or contradictory, as some of it is here, I reach my decision on a balance of probabilities – that is to say, what I consider is most likely to have happened in the light of the evidence that is available and the wider surrounding circumstances.

It's worth stating upfront that Debt and Claims Limited traded under a number of different names, including: GRF Debt, Alternative Debt Management and Grass Roots (Financial) Limited. In June 2014 Debt and Claims Limited agreed with the Financial Conduct Authority that they would cease their regulated consumer credit activities. We have found it very difficult to contact Debt and Claims Limited despite using their business address and other avenues to find them. This means that we never received any evidence from the business to help us review Mr F and Mrs Q's complaint. As it turns out I don't believe this to be an issue as Mr F and Mrs Q has provided us with information and I am also grateful to their creditors who've provided our adjudicator with the evidence we requested.

I am also in no doubt of Mr F and Mrs Q's circumstances when they entered the alternative debt plan offered to them by Debt and Claims Limited. Whilst they only had three creditors they owed a substantial amount of money and were keen to take steps to pay off their debts.

I have assessed our adjudicator's findings and detailed review of the money that Mr F and Mrs Q paid to Debt and Claims Limited. This leads me to conclude that Mr F and Mrs Q paid £5,825.57 to Debt and Claims Limited on a monthly basis and £8,000 to set up the plan. I have also reviewed the evidence provided by Mr F and Mrs Q's creditors. This shows that only minimal amounts – as little as £1 per month – were paid on occasion. In total I consider the evidence that these creditors provided to us shows that £1,758.21 was paid to Mr F and Mrs Q's creditors to offset their debts. On balance, I am satisfied that it is not fair or reasonable for Debt and Claims Limited to have retained so much of Mr F and Mrs Q's money.

It is also clear that Debt and Claims Limited did not negotiate effectively with Mr F and Mrs Q's creditors and in some cases interest was still being added to their debt. This has resulted in a significant loss for them.

Mr F and Mrs Q paid monthly amounts to Debt and Claims Limited. According to their bank statements these were: £443.89 from 17 June 2013 to 28 May 2014, and a payment of £55 on 30 June 2014. I am also able to tell from the creditor statements when and what funds they received.

Mr F and Mrs Q paid Debt and Claims Limited £8,000 in January 2013 and they believed that some of this money, at least, would be repaying their creditors. On this basis, I believe it would be fair to deduct the money paid to creditors from that original amount. This means that all of the £5,825.57 needs to be repaid to Mr F and Mrs Q, along with £6,241.79 from the original £8,000.

On top of this, Debt and Claims Limited will need to add 8% simple interest on these amounts from the dates they received them. As Debt and Claims Limited has repaid £982.10 to Mr F and Mrs Q by cheque, this can be deducted from the total amount due.

I really hope that Mr F and Mrs Q have been able to get proper debt advice because they have tried hard to repay their debts and must be very upset that they are no better off. I believe their distress has been caused by Debt and Claims Limited. I consider it fair that they pay Mr F and Mrs Q a further £250 to compensate him for this.

Unfortunately Mr F and Mrs Q knows that Debt and Claims Limited have not been responding to us. I am distressed on Mr F and Mrs Q's behalf that Debt and Claims Limited may not pay what I believe they owe them. I would urge them to meet their legal obligations.

my final decision

For the reasons stated above, my final decision is to uphold Mr F and Mrs Q's complaint against Debt and Claims Limited and instruct them to:

- Repay the £8,000 fee Mr F and Mrs Q paid to them in January 2013, minus £1,758.21 paid to their creditors;
- Refund the monthly fees in full; and
- Pay them £250 as compensation for the distress caused.

Interest should be calculated at 8% simple per year from January 2013 to 30 June 2014, as Debt and Claims Limited took money from Mr F and Mrs Q in that period, until the date of settlement. As long as Mr F and Mrs Q gets the money from the £982.10 cheque, Debt and Claims Limited can take this amount off the total owed.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr F and Mrs Q to accept or reject my decision before 10 March 2015.

Sandra Quinn
ombudsman