

complaint

Mr C, represented by a claims management company (CMC), complains that the debt management plan (DMP) he entered into with DFH Limited (the business) was mis-sold.

background

The CMC says that when Mr C approached the business in March 2013 he had debts totalling over £13,000. It says that Mr C was not made aware of the free debt services available and that if he had been told of these he would not have entered into a fee charging DMP. It also says Mr C was not aware of the damage the DMP would cause to his credit file.

The CMC says that based on Mr C's circumstances when the DMP was recommended, other solutions would have been more appropriate.

Mr C entered into an Individual Voluntary Arrangement ("IVA") in October 2013.

The business says that on the initial call with Mr C in January 2013 he provided information that he had debts of £5,000 and a disposable income of £200. It says on this information a DMP was suggested as the most suitable solution. It says this would have allowed Mr C to clear his debts in a reasonable period of time at a rate that was affordable.

In February 2013 the business received Mr C's paperwork which confirmed the debt level as just over £5,400. It says that the DMP still remained the most suitable option. It says on a welcome call in February 2013, Mr C confirmed he was not dealing with any other debts.

Further debts were added to the DMP and in July 2013 the total debt was over £8,000. The business says that Mr C's disposable income had increased to £230 per month and so the DMP could still have been completed within a reasonable time frame.

During August 2013 further debts were added bringing the total to over £10,000. It says that in September 2013 it referred Mr C to discuss alternative solutions and he said he would be interested in entering into an IVA. It says that as part of the process of entering into an IVA he would have been made aware of the other solutions available and the appropriateness of these.

The business says that at the time Mr C was given advice about the DMP there was no obligation on it to make him aware of the free services available. However, it said that this was part of its sales process and that information regarding free advice was provided via its "frequently asked questions" information.

The adjudicator did not uphold this complaint. He said when Mr C entered into his DMP the guidance in place did not place an obligation on the business to advise him of free alternatives. He said at that time Mr C's disposable income did not suggest that he couldn't afford the fees charged by the business. The adjudicator was satisfied that the business explained how the DMP would work and the impact on Mr C's credit file.

The CMC did not accept the adjudicator's view. It said that Mr C was unhappy he was not made aware of the free services available and that had he been he would not have entered into the business' DMP. It said that the review undertaken by Office of Fair Trading (OFT) in regard to the 2010 guidance made its expectation on debt management companies clear. It said that the subsequent 2012 guidance set out that debt management companies should

provide clear and accurate information about all the options available and, where appropriate, information on the availability of help and debt advice from not for profit organisations.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconsistent or contradictory, I have made my decision based on the balance of probabilities - that is what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The information provided by the CMC suggested that Mr C had debts of over £13,000 when he first discussed his options with the business. The business has provided evidence of the debts Mr C disclosed to it and a timeline of how the debts increased to a total of over £10,000.

Based on the information provided, I am satisfied that when Mr C first discussed his options in January 2013, he said he had debts totalling £5,000 and these were confirmed in February to be just over £5,400. Based on this I do not find it unreasonable that a DMP was suggested.

Mr C added debts into his DMP over the coming months and in August 2013 his total debt was over £10,000. In September, the business referred Mr C for a solution review. I find this reasonable.

The CMC says that Mr C was not made aware of the impact the DMP would have on his credit file. However the business has provided a copy of its terms and conditions from the time and a copy of its "frequently asked questions" booklet. Both of these note the impact a DMP can have on someone's credit file. The business says that both of these documents were sent to Mr C in January 2013. I find that based on this, Mr C should have been reasonably aware of the impact entering into a DMP would have on his credit file.

The CMC has also said that Mr C was not made aware of the free debt services available. I have looked at the "frequently asked questions" booklet and this does signpost the reader to websites including websites with information about free debt services. I have also looked at the script provided by the business which does include reference to free debt services.

On balance, I do not find that the business has acted inappropriately towards Mr C.

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 the CMC, on behalf of Mr C, to accept or reject my decision before 6 October 2016.

Jane Archer
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