

complaint

Mr L had a debt management plan (DMP) with Baines & Ernst Limited. He complains that it allocated his payments to the wrong account. So a county court judgment (CCJ) was issued against his wife. And a charging order may be issued against his home.

background

Mr L and his wife (Mrs L) both had debts in separate names with a business. That business passed both Mr and Mrs L's debts onto a law firm so that the law firm could collect the money that was due during the lifetime of the DMP. But Baines & Ernst accepts it made a mistake and recorded both debts as belonging to Mr L. That meant that Mrs L's payments were applied to Mr L's debt by mistake. Baines & Ernst told the business what had happened in March 2015. And it sent the business relevant evidence in May 2015.

But Mr L complains that this mistake meant that a county court judgment was issued against him. And a charging order may be issued against his home.

Baines & Ernst says the business told it that it had applied for the charging order because Mrs L's repayments were too low, not because of its mistake. And the business needed to apply for the CCJ before it could apply for a charging order. So Baines & Ernst doesn't think it's responsible for the CCJ and charging order. It says it has paid Mr and Mrs L £200 for the inconvenience its mistake caused. But it doesn't think it should pay more.

Our adjudicator thought that Baines & Ernst had acted fairly to resolve the complaint. She said that £200 was fair in the circumstances. But Mr L disagreed and asked for the complaint to be reviewed. He says Mrs L was willing to make higher repayments towards what she owed. But the business wouldn't consider it. Mr L wants £500 for what happened.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. And I don't think it would be fair to require Baines & Ernst to pay Mr L more compensation either.

There's no dispute that Baines & Ernst made a mistake that meant that Mrs L's payments were applied to Mr L's debt by mistake. But I can see that it has already told the business about that mistake, and provided it with evidence to back it up. I have no doubt this matter has been stressful for Mr L. But I also think that £200 is fair compensation for that mistake given the nature of the mistake and the impact of it.

But I don't think it follows that Baines & Ernst is responsible for the CCJ and the possible charging order. That's because the business that's responsible for them has taken the action it has because Mrs L's repayments were too low - not because of Baines & Ernst mistake. Baines & Ernst says that since it was told about the business' intention to pursue a charging order in May 2015 it has asked (several times) how much Mrs L would need to make each month to prevent it. But the business wouldn't say. And it put new offers to the business as requested. But the business rejected them.

I appreciate that Mr L says that Mrs L was willing to make larger repayments towards her debt so that it could be paid off more quickly. And that their offers weren't accepted. But Baines & Ernst isn't responsible for that – the business is. And it appears that Baines & Ernst has tried to help find an acceptable repayment figure. I can see why Mr L is unhappy about what has happened. But I think that if Mr L wants to dispute the CCJ and stop the charging order being issued he needs to pursue the matter with the relevant court.

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 L to accept or reject my decision before 14 October 2015.

Laura Forster
ombudsman