

complaint

Mr and Miss W complain that Dissolve Debt Limited mis-sold them a debt management plan (DMP) and didn't tell them the same service was available free elsewhere.

Mr and Miss W are represented by a claims management company (CMC).

background

Mr and Miss W took out this DMP in 2009. The CMC says distributions to creditors weren't made frequently. And Mr and Miss W weren't told that

- they could get the advice free from other sources
- setup fees were payable
- interest and charges might continue to accrue
- the plan might adversely affect their credit files
- creditors could still take recovery action.

Dissolve Debt says the paperwork sent to Mr and Miss W at the outset highlighted set up fees, interest, possible impact on credit status and potential for further action. And it told clients about free advice when it was appropriate to do so according to industry guidance. In Mr and Miss W's case it considers there was no such obligation when they entered the DMP. And it provided that information regularly after industry guidance changed - but Mr and Miss W carried on with the DMP until the debts were cleared in June 2016.

Our adjudicator is satisfied that Mr and Miss W were told about fees and the impact on credit history – as well as the various steps creditors might take – before they took the plan out. She's not persuaded Dissolve Debt was obliged to refer Mr and Miss W to free advice at the relevant time – given their circumstances. So she doesn't recommend the complaint should be upheld.

The CMC disagrees with our adjudicator's view of the requirement to signpost free advice and asked for an ombudsman to review the matter.

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 come to much the same conclusions as our adjudicator for broadly the same reasons.

The CMC accepts most of what our adjudicator says. It has objected to her opinion of the need to signpost free advice only - so that's what I'll deal with in this decision. It refers me to the Office of Fair Trading (OFT) Debt Management Guidance 2008 and a review the OFT carried out in 2010. And the CMC has provided very detailed submissions explaining the way it believes I should interpret those.

The CMC considers Dissolve Debt was under an obligation to treat Mr and Miss W fairly, act in their best interests and explain the advantages and disadvantages of a DMP. I think the crux of the argument it makes is that Dissolve Debt should therefore have told Mr and Miss W about sources of free advice - as one disadvantage of their DMP was the fact they had to pay fees.

I have considered the relevant industry guidance and thought carefully about what the CMC says. The guidance explains when it's appropriate to refer customers to the free sector for advice. From the information I've seen, I'm satisfied Mr and Miss W seem to have been able to afford the plan payments. And I've seen nothing to indicate those payments might have caused them difficulty in repaying priority debts - or otherwise suggest that Dissolve Debt was obliged to refer them for free advice here

Dissolve Debt has provided some evidence that it began to signpost free advice to customers from October 2013 onwards (after it signed up for the optional debt management protocol). I think Mr and Miss W were probably given that information. So I consider they should reasonably have been aware that free advice was available then. But I can see they chose to carry on with this DMP for another few years until the debts were repaid. And, having considered the circumstances overall here, I'm not persuaded there are enough grounds for me to fairly uphold this complaint.

I realise this decision is likely to disappoint Mr and Miss W, but they don't have to accept it – in which case they remain free to pursue the matter by any other means available.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask to accept or reject my decision before 30 December 2016.

Claire Jackson
ombudsman