



complaint

Miss H complains about a debt management plan she had with Gemstone Financial Management Limited. She says she was not kept up to date about her plan and as a result of this she continued to make payments after her debts had been repaid.

background

The adjudicator upheld the complaint. He found that Gemstone Financial Management had not managed Miss H's debt management plan appropriately as it should have been aware when her debts had been repaid. He felt it would not be reasonable for Gemstone Financial Management to keep the management fees it took from Miss H's payments and recommended these be refunded, with interest.

Gemstone Financial Management did not accept the adjudicator's conclusions. It said, amongst other things, Miss H failed to maintain strict payments which made it difficult to predict when the debts would be repaid, there was a failure by the creditor to say when the debt had been settled and Miss H failed to forward any of the letters the creditor issued saying the debt had been settled.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I uphold the complaint.

Miss H entered into a debt management plan in 2004. She would make regular payments to Gemstone Financial Management who would retain a fee and then distribute payments to her creditors. As Gemstone Financial Management was managing Miss H's debts it would be reasonable to expect it to be in contact with her creditors at reasonable intervals. I would also expect Gemstone Financial Management to have some idea of the amounts outstanding with each respective creditor and when therefore the respective accounts would be settled.

I understand that overpayments were made to one of Miss H's creditors for approximately one year. Gemstone Financial Management should have been aware of this and should therefore have told Miss H that she need not make any further payments. Miss H has received a refund of the payments that were sent to her creditor but she is unhappy that Gemstone Financial Management will not refund the £453 it took in management charges while the overpayments were made. Had Gemstone Financial Management correctly informed Miss H that her debts had been fully repaid once the last account had been settled she would not have incurred the management charges. Also, had Gemstone Financial Management actively managed her debts it would have realised the debts had been settled and there was nothing further to manage. I do not therefore think it is fair for Gemstone Financial Management to keep the management charges when there was essentially no longer a need to manage the account.

Gemstone Financial Management has argued that Miss H would have been aware the debt had been fully repaid and she should have therefore stopped making the payments. Miss H says she was unaware the debt had been repaid and she did not receive any indication directly from the creditor. Miss H paid in excess of £1,000 to Gemstone Financial

Management that she need not have paid. Had she been aware that her debts had been settled I consider it more likely than not that she would have stopped making the unnecessary payments. The fact that she continued making payments that were not needed suggests to me that she was unaware the debt had been settled.

Gemstone Financial Management has offered to refund one third of the £453 fees taken but I do not think it should keep any of what it took in charges. Gemstone Financial Management should refund all of the £453 of charges and add interest at 8% simple per year to each of the payments.

my final decision

My final decision is that I uphold this complaint and direct Gemstone Financial Management Limited to refund the £453 it took in management charges. Interest at 8% simple per year should be added to each of the refunded payments from the date of each payment to the date of settlement.

If Gemstone Financial Management Limited believes that tax should be deducted from the interest element of my award, it should provide Miss H with the appropriate tax deduction certificate so that she is able to claim a refund if appropriate.

Mark Hollands
ombudsman