

## **complaint**

Ms P complains that a debt management plan was mis-sold to her by Harrington Brooks (Accountants) Limited. She also complains about the way that the plan has been administered. She is being helped with her complaint by a representative.

## **background**

Ms P entered into a debt management plan with a debt management company in May 2009. That company stopped trading and the debt management plan was taken over by Harrington Brooks. A complaint was made to Harrington Brooks earlier this year that the debt management plan wasn't suitable for Ms P or in her best interests as she should've been advised to file for bankruptcy. The complaint also said that: Ms P wasn't made aware of the fees she was paying towards the plan or that a similar service could've been provided free of charge; Ms P's creditors didn't receive regular payments; and Harrington Brooks didn't adequately review the plan. Ms P wasn't satisfied with its response so complained to this service.

The adjudicator didn't recommend that this complaint should be upheld. She said that Harrington Brooks has shown that it didn't sell the plan or provide Ms P with the advice to enter into the plan. So she concluded that it wouldn't be fair to hold it responsible for any of that advice. She also concluded that Harrington Brooks administered Ms P's plan fairly - so she didn't recommend that it refund any of the money that Ms P paid towards the plan or that it make a payment to her.

Ms P's representative – on her behalf - has asked for this complaint to be considered by an ombudsman. The representative says, in summary, that:

- Harrington Brooks had an obligation to assess Ms P's circumstances once her file was transferred;
- it believes that Harrington Brooks had an obligation to tell Ms P about the free sector - it refers to the Consumer Protection From Unfair Trading Regulations 2008 and the Office of Fair Trading's debt management guidance compliance review of 2010 – which it says clearly show that there was an expectation that companies would make customers aware of the free sector and those not doing so wouldn't be seen to be acting in the customer's best interests; and
- Harrington Brooks was obliged by the Financial Conduct Authority's Consumer Credit Sourcebook to advise Mrs T of the free sector after April 2014.

The adjudicator responded to Ms P's representative and said:

- there wasn't an obligation on debt management companies to advise consumers of free alternatives when the initial advice was given to Ms P in 2009 - and even if there had been, it wouldn't have been Harrington Brooks' responsibility;
- she didn't agree that not making a consumer aware of the free alternatives was a misleading omission; and
- the Financial Conduct Authority's Consumer Credit Sourcebook requirement to give advice about the free sector is in relation to when the initial advice is given to a consumer to enter into a debt management plan - and isn't a requirement for existing plans.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so – I agree with the adjudicator – for the same reasons.

Ms P entered into the plan with another debt management company – and it was taken over by Harrington Brooks when that company stopped trading – so Harrington Brooks wasn't responsible for selling the plan to Ms P. And I'm not persuaded that there was an obligation for Ms P to be informed about free providers of advice concerning her debt problems in 2009. I agree with the adjudicator that the Financial Conduct Authority's Consumer Credit Sourcebook requirement to give advice about the free sector applies when initial advice is given to a consumer to enter into a debt management plan – so Harrington Brooks wasn't required to advise Ms P about the free sector in 2014.

I'm not persuaded that there's enough evidence to show that Harrington Brooks has acted incorrectly in its dealings with Ms P's debt management plan since it took over the plan. So I find that it wouldn't be fair or reasonable for me to require Harrington Brooks to pay any compensation to Ms P or to take any other action in response to her complaint.

### **my final decision**

For these reasons, my decision is that I don't uphold Ms P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 15 December 2016.

Jarrold Hastings  
**ombudsman**