

complaint

Miss T complains that Harrington Brooks (Accountants) Limited mis-sold her a debt management plan. The complaint is brought on her behalf by a claims management company. It says a debt relief order would have been more suitable.

background

Miss T sought advice from another business and, as a result, entered into a debt management plan ("DMP"). The administration of the plan was passed to Harrington Brooks. It was responsible for the management of the plan and for carrying out reviews. Miss T paid £80 each month into the plan until late 2013. Her representative says she couldn't afford £80; the income and expenditure wasn't a true reflection of her actual financial position; she wasn't aware of the fees involved or that a fee free arrangement was possible; and that she wasn't made aware of the impact on her credit file or that interest and recovery action could continue. It says a debt relief order would have been more suitable for Miss T.

Our adjudicator didn't recommend that the complaint should be upheld. She concluded that another business had recommended the debt management plan but that Harrington Brooks had administered the plan in line with its regulatory obligations and that it had made reasonable attempts to contact Miss T throughout the duration of the plan.

Miss T's representative didn't agree, saying in summary, that:

- The income and expenditure form was inaccurately completed and the figures recently provided by Miss T are a better reflection of the financial position she was in when the plan was recommended. Harrington Brooks should have queried the figures.
- She couldn't afford £80 a month but was told that was the minimum she had to pay.
- Alternative options, including a debt relief order, weren't discussed.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

There are two main aspects to this complaint. Whether the advice to enter into a debt management plan ("DMP") was suitable and how the DMP was managed.

On the first aspect, the business that advised Miss T to enter into the DMP was not Harrington Brooks. This other business was a separate legal entity which is no longer trading. I can't hold Harrington Brooks responsible for the setting up of Miss T's DMP and the advice she may have received at that time.

But Harrington Brooks accept they took over the management of Miss T's DMP and are responsible for how it was managed until November 2013.

I don't think it was unreasonable for Harrington Brooks to rely on the income and expenditure figures that Miss T gave when she set up the plan. She was generally able to maintain the £80 payments so there's no evidence that they weren't affordable.

I can see that Harrington Brooks had difficulty in contacting Miss T. It tried to call her on several occasions - it was sometimes able to leave messages and when it wasn't it emailed Miss T asking her to phone it to discuss her DMP. I can see that it spoke to her several times, particularly during 2011, and there is no indication that Miss T either couldn't afford the £80 payments or that she didn't want to continue with the plan.

I don't think there was any obligation on Harrington Brooks to discuss a debt relief order ("DRO") with Miss T because she wasn't eligible – she had monthly disposable income in excess of £50.

Harrington Brooks' fees had been agreed with Miss T at the outset of the plan. Our view is that before 1 April 2014, the OFT Guidance didn't require the provider of a DMP to refer a customer to the availability of not-for-profit advice and services in every case. In the circumstances of this case, I don't find there was an obligation on Harrington Brooks to tell Miss T about such services during the management of her plan.

Looking at the evidence as a whole, the DMP appears to have been affordable and was generally maintained. Miss T's creditors were willing to accept payment of her debts by instalments. I find that Harrington Brooks made reasonable attempts to contact Miss T to review the plan whilst it was under its management.

my final decision

For the reasons I've explained, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 31 October 2016.

Elizabeth Dawes
ombudsman