

complaint

Mr W, represented by a claims management company (CMC), says that the debt management plan (DMP) set up for him by Debt Advisory Line Limited (DAL) was mis-sold.

background

Mr W says that he was mis-sold the DMP and an IVA should have been proposed.

The CMC says that Mr W approached DAL in 2013 with around £40,000 of debt and that based on his affordability it would have taken him many years to complete a DMP. It says Mr W proposed an IVA in 2014 and this was accepted by his creditors. The CMC says that Mr W would have been eligible for an IVA in 2013 and that had this been proposed he would have been debt free sooner and it would have cost him less.

Mr W also says that regular reviews were not carried out on his DMP and that distributions to creditors were not always made in a timely way. He says that interest and charges continued to be applied by his creditors and that it was not made clear to him when entering the DMP that this could happen. He also says he was not told the impact the DMP could have on his credit file.

The CMC also says that Mr W was dissuaded from approaching the free debt services.

DAL says that Mr W had a DMP with it from August 2013 until October 2013 during which time he made two distribution payments. It says that had Mr W remained on the DMP he would have received regular reviews of his account to check the suitability of his debt solution.

DAL says that when Mr W was put on a DMP it had been told that an IVA case would not be run when there was more equity than debt if creditors represented by a specific company had more than a 25% share of the total debt level. It says that this was the case for Mr W. It says that the following year this situation was relaxed.

DAL also noted that Mr W was paying a family member for a loan taken out for him and for another family member's school fees. It says neither of these items would have been allowed on the expenditure for an IVA.

The adjudicator said that he did not feel the DMP was a suitable option for Mr W. He said there was no reasonable prospect of him completing the plan and settling his debts. Because of this he said that Mr W should be refunded the set up and management fees he had paid to DAL plus interest.

The CMC said that to put Mr W back in the position he would have been had the DMP not been set up he needed to be refunded all the payments he had made. It said that even though payments were made to his creditors these did not change the situation he would have been in had an IVA been suggested instead of the DMP. It also said that had the IVA been suggested by DAL and set up at that time Mr W would have been debt free sooner and that DAL should deal with Mr W's IVA to ensure settlement can be reached by the date he would have been debt free had the correct solution been provided at the outset.

my findings

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

Mr W complains about being mis-sold a DMP and the management of the DMP.

I will deal first with the management of the DMP. Mr W says that regular reviews were not undertaken and that distributions to creditors were not always made in a timely way.

Mr W entered into the DMP in August 2013 and left the DMP in October 2013. Income and expenditure information was obtained during the process of setting up the DMP and given the short period of time the DMP was active I would not have expected a review to have been undertaken.

I have looked at Mr W's statements and other information provided and can see that Mr W made two monthly payments and that distributions were then made to his creditors. Based on the above I have nothing to suggest the DMP was not managed correctly.

Mr W has said that he was not made aware that creditors could apply interest and charges to his account while he had a DMP and that recovery action could continue. He also said he was not made aware of the impact the DMP could have on his credit file. I have looked at DAL's terms of business and the information contained in its system notes regarding the welcome call and the welcome pack being sent out. Based on this, I find that Mr W was provided with enough information regarding the ongoing actions of creditors and the impact on his credit file.

The key issue is whether it was reasonable that a DMP was suggested for Mr W in 2013. Given Mr W's age and the length of time it would take him to clear his debts through the DMP, I find that other solutions should have also been considered.

While I note the reasons DAL has given for why an IVA was not suitable at that time, I also note that Mr W entered into an IVA less than a year later. Therefore I find it reasonable that this could have been considered further at the time.

On balance, I find that the DMP might not have been a suitable solution for Mr W and because of this I find that he should be repaid the charges he paid to the business. Evidence has been provided to show that Mr W made two monthly fee payments of £29.95 to the business. I have not seen any evidence of any other fee payments.

my final decision

My final decision is that I uphold this complaint. I find that Debt Advisory Line Limited should refund Mr W the fee payments he made plus 8% simple interest from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 31 October 2016.

Jane Archer
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