

complaint

Mrs T, represented by a claims management company (CMC), complains that Debt Advisory Line Limited (the business) did not tell her about the free debt services available and did not manage her debt management plan (DMP) correctly.

background

Mrs T entered into a DMP managed by the business in 2006. The CMC complained on Mrs T's behalf that:

1. she was not made aware of organisations that provide similar services free of charge;
2. she was not made aware of the impact reduced payments to creditors would have on her credit rating;
3. she was not made aware that creditors could continue to charge interest and proceed with recovery action;
4. payments were not made frequently to her creditors; and
5. reviews were not conducted to ensure the plan was appropriate.

The business says that Mrs T entered into the DMP in 2006. It says at this time there was no obligation for it to inform her of the free debt services available. It says that the Office of Fair Trading guidance 2012 says that debt management companies should refer customers to a not-for-profit organisation where appropriate. It says Mrs T did not meet the circumstances specified in regard to a referral.

The business says that on all initial calls it tells customers that it cannot guarantee creditors will not take further action and that the customer's credit rating may be affected. It also provided information on the payment history for Mrs T's DMP and the reviews carried out.

The adjudicator said that Mrs T entered into the DMP in 2006. She explained that the Financial Ombudsman Service could only look at events that took place after 6 April 2007 and so we could not consider Mrs T's complaint relating to the set up of her DMP. She said that the Office of Fair Trading guidance issued in 2012 noted that, where appropriate, consumers should have been made aware of help and debt advice from not-for-profit advice organisations. She said there was no evidence to show this Mrs T fell under these circumstances during her plan.

The adjudicator said that the payment history showed payments were distributed and that regular reviews did take place. Based on this she did not uphold this complaint.

The CMC said that the guidance required the business to provide information on the full range of debt services which included free debt services. It said that although the guidance noted that customers should be referred in certain circumstances such as when they could not afford the debt management company fees, it said that all customers should have been signposted to the free services available.

my findings

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

As the adjudicator has explained, this service gained jurisdiction to consider these types of complaints in April 2007. Mrs T entered into her DMP in 2006. Because of this I have not considered the issues raised in regard to the set up of the DMP.

I have looked at the complaints raised in regard to the ongoing management of Mrs T's DMP. Mrs T says that distributions were not made regularly to her creditors and that the required reviews were not undertaken. The business has provided information on the payments made and the reviews undertaken and based on this I find nothing to suggest that the DMP was not managed correctly.

The outstanding issue relates to the availability of free debt services and the information the business was required to give Mrs T about this.

As already set out, Mrs T entered into her DMP before we have jurisdiction to consider these complaints. Therefore I cannot comment on the advice given at that time.

Guidance was issued while Mrs T's DMP was ongoing. The Office of Fair Trading guidance issued in 2012 has been noted. I appreciate the comments the CMC has made in regard to this and I understand the points made by the CMC in regard to other regulations in place at the time. However I find nothing to suggest that the business did anything wrong in regard to the information it provided to Mrs T while her DMP was operational. Because of this I do not uphold this complaint.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 15 December 2016.

Jane Archer
ombudsman