

## **complaint**

Mrs T complains that a debt management plan was mis-sold to her by Harrington Brooks (Accountants) Limited. She also complains about the way that Harrington Brooks had dealt with her plan. She is being helped with her complaint by a representative.

## **background**

Mrs T entered into a debt management plan with Harrington Brooks in December 2009. The plan finished in January 2015. She complained to Harrington Brooks in November 2015 about the plan. She wasn't satisfied with its response so complained to this service. She says that she wasn't made aware: that interest and charges could continue to accrue; of the monthly fee deducted from her payment; of any potential impact on her credit rating; of the setup fee; and that similar services could be provided to her free of charge. She also says that distributions to her creditors weren't made frequently and reviews didn't take place frequently.

The adjudicator didn't recommend that this complaint should be upheld. He concluded that information about the charges for the plan, the affect of the plan on Mrs T's credit rating and that Harrington Brooks could only ask creditors to accept lower payments and stop interest and charges were set out in the welcome pack which was provided to Mrs T. He also concluded that the guidance doesn't require businesses to direct their clients to free services. He had seen no evidence to show that distributions weren't made correctly. And the plan was reviewed in 2010, 2012, 2013 and 2014.

Mrs T's representative – on her behalf - has asked for this complaint to be considered by an ombudsman. The representative says, in summary, that it believes that Harrington Brooks did have an obligation to tell Mrs T 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 it says that Harrington Brooks was obliged by the Financial Conduct Authority's Consumer Credit Sourcebook to advise Mrs T of the free sector after April 2014.

## **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 – and for the same reasons.

The Office of Fair Trading's debt management guidance issued in 2008 – which was applicable to Harrington Brooks in December 2009 – says:

*“The OFT has no objection to DMCs charging for, or consumers choosing to pay for, debt management services. The consumers using these services will, however, often be vulnerable because of the nature of their financial problems and, almost by definition, have the least available financial resources. It is, therefore, particularly important that the services provided by DMCs are carried out with due care, skill and fairness.*

*Some of the practices highlighted here are clearly unfair or improper, and in those cases DMCs should have been aware, even before the issue of this Guidance, of the risk of licensing action if they engaged in such practices or allowed their employees, agents or associates to do so. In other cases the position might have been less clear, and this Guidance is intended to be helpful in outlining the kinds of business practice to which the OFT is likely to object.”*

Although the guidance does refer to the free sector – I don't consider that it requires a debt management company to provide a customer with advice about the free sector. And I'm not persuaded that Harrington Brooks was obliged to inform Mrs T about free providers of advice concerning her debt problems in 2009 or during the period of her plan.

I'm not persuaded that the debt management plan was mis-sold to Mrs T or that Harrington Brooks has acted incorrectly. So I find that it wouldn't be fair or reasonable for me to require Harrington Brooks to pay any compensation to Mrs T 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 Mrs T's 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.

Jarrold Hastings  
**ombudsman**