

## **complaint**

Mrs O, and her representative (a claims management company), have complained that RG Debt Management Service Limited (trading as Debt Line), didn't make it clear to her that she could obtain a fee free service elsewhere in order to manage her debts.

## **background**

Mrs O entered into a debt management plan with Debt Line in 2008. Mrs O's representative says that the debt management plan wasn't suitable for Mrs O.

Mrs O complained to Debt Line, but she wasn't happy with the response, and so she referred her complaint to this service.

Mrs O's representative explained that she was unhappy with Debt Line because a condition of the plan was that she had to pay monthly fees each month. It says Debt Line should've told Mrs O about alternative organisations that could've helped her with her debt, free of charge.

An investigator didn't think we could look at Mrs O's complaint because she didn't think the complaint had been made in time. Mrs O's representative didn't agree with the investigator's opinion and so the complaint was passed to me for a decision.

I thought that we could look at the complaint as I thought it had been made in time. But I didn't think the complaint should be upheld, so I provided my initial thoughts to Mrs O and her representative. I said that debt management companies weren't under any obligation to give consumers information about fee free options regarding their debt management in 2008.

I also explained that I'd seen the checklist Debt Line would've used when it arranged the plan. I said that the checklist showed Mrs O would've likely been given information about other available options, including the advantages and disadvantages of each, and that Debt Line would've referred her to a not for profit debt advice body if she needed immediate assistance, or if Debt Line couldn't, or was unwilling, to help. The checklist also showed that Debt Line would've referred Mrs O to a not for profit debt advice body if she hadn't had sufficient disposable income to pay the Debt Line's fees. I accepted the checklist was a representative sample, but I thought it was more likely than not used, as I hadn't seen anything to persuade me a different conversation took place.

Mrs O's representative responded and directed to me to various paragraphs in the Office of Fair Trading "OFT" Debt Management Guidance 2008. It says it refers to debt management companies needing to act fairly and in the customer's best interests. It says these are overriding themes throughout the guidance. It also said that a review the OFT carried out in 2010 shows that the intention of the guidance was to expect debt management companies to make customers aware of free services and free advice.

I responded to Mrs O and her representative, explaining that I still felt the guidance in place at the time didn't show that Debt Line had to tell Mrs O about fee free alternatives. I also explained that the OFT 2010 Debt Management Compliance Review was carried out approximately two years after Mrs O entered into the debt management plan. So I didn't think Debt Line would've had the opportunity to take on board any of the findings and

learning points identified in the review. I also explained that I didn't think it was fair to apply later guidance and rules retrospectively.

On top of this, I explained that I'd seen the information Mrs O gave to Debt Line at the time the plan was taken out. From this, I said I could see that she could afford the regular payments to the plan, and there was nothing to suggest these payments or fees might cause her problems in paying her priority debts. And I couldn't see any other reason that Debt Line would've referred Mrs O to free services.

Mrs O's representative responded saying that while it accepted the OFT compliance review took place two years after the sale of the plan, this wasn't new guidance. Mrs O's representative explained that it didn't think it was fair for a debt management company *not* to mention fee free services, when it was meant to be acting in a customer's best interests, particularly when most customers are over-indebted, vulnerable and desperate.

I passed my thoughts so far onto Debt Line who had nothing further to add. Debt Line was also happy for me to issue a final decision on the merits of the case.

Having taken into account all the submissions so far, I'm now ready to make a final decision.

### **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've decided not to uphold Mrs O's complaint, for the same reasons I explained in my provisional thoughts.

I've thought very carefully about all the points Mrs O's representative raised in response to my provisional thoughts, but these don't change my mind.

Essentially, I still don't think that Debt Line did anything wrong when it arranged Mrs O's debt management plan in 2008. I've looked carefully at the OFT guidance from 2008, and while I agree there are a number of references to treating a customer fairly, I don't think it'd be fair to have expected Debt Line to interpret this as specifically needing to tell Mrs O about fee free services available to her at the time. However, I appreciate that a debt management company might need to tell other customers about fee free services, depending on a customer's personal circumstances.

I've thought again about Mrs O's particular circumstances at the time the debt management plan was arranged. As I explained in my provisional thoughts, I can see that Mrs O could afford to pay for the regular payments and fees to the plan, and there was nothing to suggest these might cause her problems in paying her priority debts.

Mrs O's representative has said that most customers were over-indebted, vulnerable and desperate. But I'm only looking at this particular complaint, and Mrs O's particular circumstances. Mrs O's representative has made some very generic complaint points on her behalf, and there's nothing within them to persuade me that she was particularly vulnerable or desperate at the time.

And while I've taken note of the comments Mrs O's representative has made regarding the OFT 2010 compliance review in 2010, Debt Line was unable to take on board any of the findings regarding the provision of information on fee free services, and in my opinion the guidance from 2008 is silent on this point.

**my final decision**

For the reasons set out above, I don't uphold Mrs O's complaint against RG Debt Management Services Limited, trading as Debt Line.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 9 December 2016.

Katie Doran  
**ombudsman**