

complaint

Mr H complains that CitiFinancial Europe Plc (CFE) added interest and charges to his debt after he had entered into a debt management plan (DMP).

our initial conclusions

The adjudicator recommended that the complaint should be upheld. She considered that the debt management company (DMC) and Mr H had both written to CFE in late 2008 to tell it that Mr H had entered into a DMP. His payments were made to a debt recovery company acting for CFE after this date. The adjudicator considered that CFE should have been aware of the DMP as a result. She recommended that CFE should refund the interest and charges applied since 22 December 2008.

CFE is not happy to accept the adjudicator's recommendation. It says it was not aware of the DMP. Payments from the third party were not received until May 2009.

my final decision

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

The issue I need to decide is when CFE became aware that Mr H had entered into a DMP. Mr H says he wrote to it in October 2008 to tell CFE about it. CFE had appointed a debt recovery company to manage Mr H's debt in November 2008. His DMC began to make payments to the debt recovery company CFE in December 2008. The DMC must have had some contact with CFE for the DMC to be aware to make the payments to the debt company rather than to CFE. A reference number was given by the debt company to the DMC to use when payments were made on behalf of Mr H. I am persuaded therefore, on balance, that CFE should have been aware of the DMP in late 2008. The debt company it had appointed to manage Mr H's balance knew about it, and so it is fair to say that CFE should also have been aware of it.

My decision is that I uphold this complaint as set out below.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr H either to accept or reject my decision before 12 October 2015.

Rosemary Lloyd

ombudsman at the Financial Ombudsman Service

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

ombudsman notes

CitiFinancial Europe Plc should refund the interest and charges it applied to Mr H's account from 22 December 2008.

Where evidence is incomplete, inconsistent or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and wider circumstances.

what is a final decision?

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

what happens next?

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.