

complaint

Mr and Mrs A complain that House & Home Care Limited, trading as Immediate Financial, ("IF"), overcharged them in terms of their fees and hadn't assisted them in paying their debts

background

Mr and Mrs A initially entered into a debt management plan ("DMP") with IF in November 2012. The DMP was then reviewed by IF, and following the review, Mr and Mrs A agreed to switch to a Debt Settlement Plan ("DSP") with IF in June 2013. IF had explained its fee structure for the DSP in a phone call with Mr and Mrs A. IF had also sent Mr and Mrs A an information pack with terms and conditions and a Fee Schedule for the DSP in June 2013. Reviews of the DSP were also carried out in 2013, 2014 and 2015. Mr and Mrs A terminated the DSP in 2016 when they entered into Individual Voluntary Arrangements. They believe that IF has charged them too much in fees and that the fees weren't justified. They believed that they had agreed to pay fees amounting to 20% of the amount saved by them, whereas IF said that the fee was based on 20% of the total amount of Mr and Mrs A's debts.

The adjudicator didn't recommend that the complaint should be upheld. She had read the terms and conditions for the DSP which were provided to Mr and Mrs A. She could see that IF had sent them a welcome letter, which would've included the terms and conditions as well as a Fee Schedule. As Mr and Mrs A then accepted the DSP, she thought that it would now be difficult for her to say that IF hadn't disclosed the fee information to them. She also noted that the DSP was successful in clearing £14,846.47 of Mr and Mrs A's debts for a total cost of £12,937.92 including fees. This meant that Mr and Mrs A had saved £1,908.55 overall. So, she couldn't conclude that Mr and Mrs A weren't aware of the fees that would be taken, nor that IF hadn't tried to assist them in settling their debts.

With regard to the creditor, ("C"), whose account Mr and Mrs A said that IF didn't settle, the adjudicator noted that the ongoing settlement was one month away from being completed, and only £175 was needed for this debt to be settled. But, the final payment wasn't made by Mr and Mrs A, so the settlement offer of £1200 was now void. The adjudicator had seen the settlement account statements and she was satisfied that payments had been made by IF to C.

Mr and Mrs A disagreed and said that a fee of 33% had been taken but that they had only agreed to a fee of 20%. They said that it wasn't fair that a fee had been collected for the balance of their debt which hadn't been settled.

The adjudicator explained that Mr and Mrs A had agreed to a fee of 20% of the overall debt (and not the settled debt) by agreeing to the terms and conditions. Mr and Mrs A's overall debts totalled £37,167.41, so a maximum fee of £7,433.48 was potentially due to IF. But, IF had only settled a total debt balance of £14,846.47, paying a settlement amount of £8,142, with a saving of £6,704.47. The adjudicator explained that IF only draws its fee once it has made a saving, and only draws up to the value of that saving. In Mr and Mrs A's case the saving was £6,704.47, so IF's maximum total fees were £6,704.47. But, IF also only invoices and draws 75% of each saving made. So, IF had invoiced Mr and Mrs A for £5,028.35, which was 75% of the saving it had made for them.

my findings

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

I appreciate that Mr and Mrs A are upset at the amount of fees that they have been asked to pay. But, I have read the script which would have been read to Mr and Mrs A when the DSP was sold to them. I note that this said that IF's fees would never be more than 20% of their total debt. I have also seen the terms and conditions for the DSP which were sent to Mr and Mrs A in June 2013. I note that the letter which was sent with the terms and conditions said that Mr and Mrs A should carefully read the terms and conditions and sign and return the letter of acceptance sent with them. The terms and conditions said that IF would charge 20% of Mr and Mrs A's outstanding debts (defined as the full amount of the debts owed to their creditors) if this amount or more was saved. The terms and conditions also said that the Fee Schedule sent with the letter showed how this worked in practice. So, I don't think I can safely conclude that Mr and Mrs A hadn't been told about the fees due for the DSP.

Unfortunately I've not seen the Fee Schedule which was sent to Mr and Mrs A. But, I can see that Mr and Mrs A continued with the DSP for over three years. So I think they accepted the terms and conditions and the Fee Schedule for the DSP by doing so.

I note that IF has explained that it only takes fees after it makes settlements for its clients, and then only out of the savings that it makes for them. When it completes a settlement, it invoices for 75% of the saving it makes until it has taken 90% of its total fees. It then collects the remaining 10% when the DSP is complete. I note that IF's potential maximum fees were £7,433.48. But as its total saving of £6,704.47 was less than this, it has only invoiced for 75% of this total saving amount, which is £5,028.35. In the circumstances of this complaint, overall, I don't think that I can safely conclude that IF has acted unfairly in invoicing this amount.

I also note that Mr and Mrs A had queried the fees due for C's account. I can see that IF explained in its revised terms and conditions sent to Mr and Mrs A in February 2016, that where a settlement is paid in instalments, that the fee was due when the negotiation of the settlement was complete. In C's case, I can see that IF had completed the negotiation of the settlement, and so its fee for this was due. I also note that payment of the settlement wasn't completed by Mr and Mrs A, but I can't hold IF responsible for this. I note that it urged Mr and Mrs A in its final response letter to them to make the final settlement payment.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs A to accept or reject my decision before 10 February 2017.

Roslyn Rawson
ombudsman