

## **complaint**

Mrs C has complained that Totemic Limited, trading as Payplan, did not give her proper advice when she contacted them about her debts in 2005.

Mrs C is represented in her complaint by a local advice centre.

## **background**

In 2005 Mrs C contacted Payplan to discuss what she should do about her debts. She owed more than £56,000. Payplan set up a debt management plan for her. She paid £317 per month for a considerable period.

After major surgery Mrs C was unable to return to work and retired. She told Payplan that she wasn't going to be able to meet her monthly payments. They advised her to contact her local advice centre. Mrs C entered into an individual voluntary arrangement (IVA) in 2014.

On her behalf, the advice centre complained to Payplan that they'd not given her proper advice when she first approached them. She also felt that she'd not got annual reviews as she should. Nor was advice not to enter an IVA reviewed.

Payplan felt that they had discussed options with Mrs C, including an IVA and bankruptcy, but these had never been appropriate. Mrs C brought her complaint to the ombudsman service.

Our adjudicator informed Mrs C that we didn't have the power to look at advice she was given before April 2007. This was before the service had jurisdiction to consider consumer credit issues. However she had looked at what Payplan did after that time but didn't think they'd done anything wrong.

The advice centre was sure that an IVA had never been discussed. They asked an ombudsman to consider Mrs C's complaint.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. In cases like this where the evidence is contradictory, I reach my decision on a balance of probabilities. This means I'll look at all the evidence. I'll then decide what I think is most likely to have happened.

It's worth confirming that our adjudicator is right. We can't review the advice Payplan gave Mrs C before April 2007. This took place before consumer credit fell within our jurisdiction. However I have reviewed Payplan and Mrs C's evidence about their initial contact. This has helped inform my view about what is mostly likely to have happened later.

I note that Mrs C was referred to Payplan originally by her local advice centre.

The advice centre doesn't think that Mrs C had annual reviews of her debt management plan with Payplan. But this isn't what Payplan's customer notes show. These show that there were annual reviews in 2007 and 2009. Over and above that I think these also show that Payplan tried to hold annual reviews in other years with Mrs C. They emailed, phoned and texted on a regular basis when these were due. Mrs C never got back to them.

I don't think I can hold Payplan responsible for not discussing Mrs C's options with her when it seems that she chose not to meet with them.

On balance I believe the evidence does show that an IVA was discussed when Mrs C met with Payplan in 2007 and again in 2009. When Mrs C first contacted Payplan, she seems to have been very concerned about her husband finding out about her debts. I think this meant that she was also not keen on entering into any debt arrangement which would mean her husband may find out what was going on. Although the house she lived in was in her husband's sole name, Mrs C knew that she was still likely to have a beneficial interest in the property. This could impact on what was best for her and whether an IVA would suit.

I know that Mrs C has had a hard couple of years. I can see how frustrating it must have been to have made regular payments for nine years but know that she still owed a substantial amount of money. Her daughter helps with her payments into the IVA she now has. She no longer lives with her husband. However I don't believe that Payplan did anything wrong. Although I can understand why Mrs C now wishes she'd opted for an IVA much earlier.

#### **my final decision**

For the reasons stated above, my final decision is not to uphold Mrs C's complaint against Totemic Limited, trading as Payplan.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs C to accept or reject my decision before 1 July 2015.

Sandra Quinn  
**ombudsman**