

## **complaint**

Mr A and Miss B complain that Debt Help Direct Limited ("DHD") failed to ensure payments they made under their debt management plan were distributed to their creditors on time or at all, which has left them in a worse position financially.

## **background**

Mr A and Miss B took out a debt management plan with DHD in June 2011. Their first two monthly payments were to be retained as set-up fees. DHD was also entitled to deduct a monthly management fee of £35 from each subsequent monthly payment, but was required to distribute the balance to Mr A and Miss B's creditors.

Mr A and Miss B say that, despite making payments to DHD, they continued to receive creditor contact and eventually discovered their creditors were not being paid. After contacting their creditors themselves, they found out that there was a shortfall of £2,636.78.

DHD maintains that it sent out cheque payments to creditors, but the creditors did not cash the cheques. DHD has explained that it simply did not notice the un-cashed payments because of the volume of transactions it deals with. Mr A and Miss B say they sent all correspondence from creditors to DHD, as they had been instructed to do by DHD. Unfortunately, DHD says it no longer has any record of this correspondence.

Whilst DHD considers it has fulfilled its obligations and does not consider it is liable for the creditors' failure to cash the cheques, it has agreed to refund a total of £4,246.78, comprising the 'un-cashed' payments and DHD's set-up and monthly management fees. Mr A and Miss B have not accepted this offer because it does not compensate them for the interest and charges that have been added by their creditors during the debt management plan. Nor does it compensate them for the distress and inconvenience they have suffered.

## **our initial conclusions**

The adjudicator concluded that DHD had not provided an adequate service and had breached its obligations under the Office of Fair Trading's debt management guidance. He recommended that DHD should add interest at 8% simple per year on the amount that it had already offered to refund. The interest is to be added to each payment made by Mr A and Miss B, from the date that each payment was made until the date that the money is returned.

He also recommended that DHD should pay £250 to compensate Mr A and Miss B for the distress and inconvenience they have been caused.

DHD did not respond to the adjudicator's recommendation.

Mr A and Miss B were disappointed that the adjudicator did not recommend a refund of interest and charges added as a consequence of DHD's failure to ensure their creditors received payment. They also felt the compensation for distress and inconvenience was low in view of what they had been through.

The complaint has therefore been referred to me.

## **my findings**

I have considered everything that has been said and provided to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I uphold Mr A and Miss B's complaint for the following reasons.

I have taken into account that DHD says it distributed all payments in accordance with its obligations. However, the information provided by Mr A and Miss B's creditors indicates that payments were made late or missed altogether.

DHD admitted in its letter to this service, sent in September 2012, that it did not have adequate systems in place to be able to monitor payments to creditors. Nor does it appear to have taken any notice when Mr A and Miss B contacted it to express concern about continuing creditor contact about payments not being made. I accept that Mr A and Miss B sent statements from creditors to DHD. DHD does not appear to have considered these before shredding them only two weeks from receiving them.

I do not consider DHD carried out its contractual obligations to Mr A and Miss B with reasonable care and skill. In the circumstances, I agree that DHD must refund all fees paid by Mr A and Miss B, including the set up fees and monthly management fees. DHD must also refund each of the so-called 'un-cashed' payments making up the shortfall of £2,636.78. I also agree that simple interest of 8% per year must be added to each payment Mr A and Miss B made to DHD from the date each payment was made until the money is refunded.

Mr A and Miss B would also like to be reimbursed the interest and charges that accrued while DHD was responsible for managing their debt repayments. They say they have since set up their own debt management plan with their creditors, all of which have accepted their offers of payment. They say they have also succeeded in freezing interest and charges with all of their creditors.

DHD's terms and conditions do not guarantee success in freezing interest and charges, but I would have expected DHD to ask Mr A and Miss B's creditors to consider doing so at the start of the debt management plan. DHD has provided copies of the letters it says it sent out to creditors at the outset, but no information about any responses from creditors has been provided.

However, it has also proved difficult to obtain clear information from Mr A and Miss B's creditors that charges and interest applied during the debt management plan would have been frozen sooner. Some of Mr A and Miss B's creditors have said that no charges were applied during the period of the debt management plan. Other creditors have provided information which indicates that charges were applied even after Mr A and Miss B say they began managing their debts.

I accept that some of Mr A and Miss B's creditors later may have agreed to freeze charges once regular payments had been put in place by Mr A and Miss B themselves. However, it is difficult to say at what stage these creditors would have agreed to freeze charges, if at all, during the period of the debt management plan. I accept it is possible that charges might have ceased sooner in relation to some of their accounts had the debt management plan been properly administered by DHD, but as it has not been possible to quantify these, I do not feel able to make an award refunding interest and charges.

Nevertheless, I am satisfied that Mr A and Miss B have suffered much anxiety as a result of the mismanagement of their repayments. They had put their trust and confidence in DHD to ensure that their creditors were being paid regularly and that their debts reduced over time,

which did not happen. Instead, Mr A and Miss B have had to carry out their own enquiries into the 'missing' payments and ultimately negotiate their own payment arrangements with each of their creditors. I do not agree that £250 compensation for distress and inconvenience is adequate in the circumstances. In my view, an award of £300 each is fair and more appropriately reflects the distress and inconvenience caused to them.

### **my final decision**

For the reasons given, my final decision is that I uphold Mr A's and Miss B's complaint and I direct Debt Help Direct Limited as follows. Debt Help Direct Limited must-

1. refund all fees paid by Mr A and Miss B to Debt Help Direct Limited, comprising the set up fee of £1,330 and each monthly management fee of £35;
2. add simple interest at 8% per year to each fee payment made by Mr A and Miss B from the date each payment was made until the money is refunded;
3. refund each of the un-cashed payments making up the shortfall of £2,636.78;
4. add simple interest at 8% per year to each un-cashed payment made by Mr A and Miss B from the date each payment was made until the money is refunded;
5. pay Mr A and Miss B £300 each in compensation for the distress and inconvenience caused to them.

Athena Pavlou  
**ombudsman**