

complaint

Ms W complains that Baines & Ernst Limited didn't tell her about free services when she was setting up a Debt Management Plan (DMP) with it. She adds that she didn't know about fees or the effect on her credit file and that interest on her debt continues to be applied.

background

Ms W entered into a DMP with Baines & Ernst in November 2013. She began paying £169 per month, but said she didn't know it was charging a £10 monthly fee, or that she needed to pay £150 up-front. She says Baines & Ernst should have told her that free services were available and that interest may still be applied to her account.

Baines & Ernst said it was only obliged to make Ms W aware of free services if it felt that its commercial service was not viable for her. It said she was told about the charges, and that interest may not be frozen, during a call. And, although it accepts it did not discuss the effect on her credit file, her creditor has confirmed her account has not been defaulted because she is making regular payments. It adds that information about the management charges, interest and credit rating are also all included in the initial information Ms W received.

Our adjudicator didn't recommend the complaint should be upheld. He explained that, before April 2014, businesses weren't obliged to tell consumers about free debt services. Although he did not receive a copy of the call, he found the charges were outlined in several places in the paperwork and he couldn't conclude Ms W was told interest on her debt would be frozen.

Ms W's representative responded to say, in summary, that the guidance in place when Ms W agreed to the DMP said a consumer should be told about free services "*where appropriate*". In this case, he said, it was appropriate to do so. He added that, as Ms W's DMP continued after April 2014, Baines & Ernst should have told her about free debt services after that date.

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 haven't heard the call to which Baines & Ernst refers, but I am satisfied Ms W was told about the charges and accepted them. I say that because I have seen call notes from October 2013 and Ms W is complaining that the paperwork she has received is incorrect. According to the notes, she says she was told the charge would be £10 per month and the paperwork says £35. The charges are also outlined in the letter, welcome brochure and terms and conditions Ms W would have received.

Baines & Ernst also says it confirmed on the call that interest may not be frozen because the DMP is an informal arrangement. From looking at the paperwork, I cannot conclude Ms W was told her creditor would freeze interest, but I can see that it agreed to a lower interest rate. I can't see Baines & Ernst did anything wrong in that respect.

With regard to Baines & Ernst's obligations to inform Ms W about free debt advice services, at the time Ms W agreed a DMP, this was not a requirement. I accept that after 1 April 2014, debt management companies have a duty to tell consumers that a free service is available, but that is "*in its first written or oral communication*". So, I can't conclude Baines and Ernst did anything wrong by not telling Ms W about free services during her annual reviews.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 31 October 2016.

Amanda Williams
ombudsman