

complaint

Miss J complains about the way William Goldberg administered her debt management plan and the adverse effect she says this had on her debts and credit file.

background

Miss J signed up to a debt management plan with William Goldberg in 2009. In 2010 her account was transferred to another debt management provider (which I shall call "DMP2") when some of William Goldberg's former staff moved to that business.

In 2010 Miss J complained – initially to DMP2 – about the administration of her plan. She said she was misled to sign up to the plan after being told interest and charges were guaranteed to be frozen and that she would be protected from any legal action by her creditors. She said she was not kept updated about what was happening, her debts increased and poor administration led to a CCJ being registered against her.

DMP2 responded to Miss J's complaint and also responded to requests for information from this service. However, when our adjudicator ultimately upheld Miss J's complaint about poor administration of the plan from inception, DMP2 argued that it was not responsible for that, because Miss J had only become its client in 2010.

I issued a final decision on Miss J's complaint against DMP2 in November 2012. I directed it to pay an award to Miss J for the distress and inconvenience its handling of her complaint had caused.

This new case was set up about William Goldberg's administration of the plan before it was transferred to DMP2. William Goldberg has not responded to information requests from this service.

Our adjudicator upheld the complaint about William Goldberg. He calculated that Miss J had paid £1,422 towards the plan, of which £1,171.26 had been distributed to her creditors. However, he did not think William Goldberg had done enough to show it had complied with the Office of Fair Trading's (OFT) Debt Management Guidance, kept Miss J updated, or made her properly aware of the implications of entering into the debt management plan. The adjudicator therefore recommended that William Goldberg refund the money Miss J had paid it, plus interest, less the money it had sent on to her creditors. He also recommended William Goldberg pay Miss J £250 for distress and inconvenience.

William Goldberg has not responded to Miss J's complaint, or to the adjudicator's opinion. Its consumer credit license has lapsed.

Miss J is unhappy that William Goldberg appears to have moved away and may have stopped trading. She feels delay caused by William Goldberg (and this service) means she will not receive any refund. Miss J also maintains that William Goldberg and DMP2 are one and the same business.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I understand that Miss J is disappointed with the way her complaint has been progressed by this service. However, my role is to reach a decision on her complaint about William Goldberg, not to look into any complaint she may have about this service. I have asked the adjudicator to refer Miss J's concerns to his manager for a response on that particular point.

Miss J maintains that William Goldberg and DMP2 are the same business. I explained in my previous decision why that is not the case (even though they share some of the same staff and have confusingly similar trading names). As they are separately licensed businesses and are separate legal entities I must consider their actions separately.

As William Goldberg has not responded to any information requests, there is only limited evidence of any work it may have done on Miss J's behalf. Nor is there much evidence to show how the debt management plan was explained to her or to show that she was made aware of the impact entering into this plan might have on her financial position.

The information the adjudicator obtained from Miss J's various creditors and their representatives shows that the majority of the money Miss J sent to William Goldberg was sent on to her creditors. Some creditors also agreed to freeze interest and charges. Others did not. It is possible, though not certain, that this was due to negotiations by William Goldberg. So I don't think it is the case that William Goldberg did nothing at all for Miss J – although I can appreciate that it clearly did less than she was expecting and it seems likely that its overall level of communication with her was poor.

Because of its apparent failings in the way it administered Miss J's plan, I agree with the adjudicator that it would not be fair or reasonable for William Goldberg to keep any part of the fees it charged her. I do, however, think William Goldberg is entitled to deduct from that refund any of the money it did send on to Miss J's creditors.

Given its failure to engage with Miss J's complaint, I also agree with the adjudicator that an award for distress and inconvenience is appropriate – although I will slightly increase the award recommended by the adjudicator.

Finally, I am aware this outcome is still likely to be disappointing for Miss J, given the time and effort she has had to put into her complaint. However, as the adjudicator has already explained, there are limits to what we are able to do. We are not regulators and have no wider monitoring powers. We also have no powers to force businesses to comply with our awards, although a consumer can enforce an ombudsman's award through the courts.

my final decision

My final decision is that I uphold this complaint and I direct William Goldberg Limited to:

- pay Miss J £1,422, plus interest calculated at 8% simple per year from the date each payment was made (as set out below) to the date of settlement;
- pay her an additional sum of £300 for distress and inconvenience; and
- from the total figure above, William Goldberg Limited can deduct a sum of £1,171.26 to reflect the money it paid to Miss J's creditors and their representatives.

William Goldberg Limited should calculate the interest on each of the £158 payments made by Miss J from the following dates:

- 1 February 2010, 1 March 2010, 1 April 2010, 4 May 2010, 1 June 2010, 1 July 2010, 2 August 2010, 1 September 2010, 1 October 2010

If William Goldberg Limited considers that tax should be deducted from the interest element of my award, it should provide Miss J with a tax deduction certificate so she can claim a refund, if appropriate.

I remind William Goldberg Limited that my decision and award is enforceable through the courts.

Dawn Griffiths
ombudsman