

complaint

Miss A complains that Haringey District Citizens Advice Bureaux ("Haringey CAB") were wrong to tell her to include a debt on her Debt Relief Order (DRO).

background

Miss A visited Haringey CAB in May 2016 for advice about managing her debts. They arranged a DRO for her and included a debt her daughter had with her University. Miss A was told that the debt would be written off at the end of the DRO moratorium period but she's upset that the University are still pursuing her daughter for payment.

Haringey CAB explained that they'd understood Miss A may also be liable for the debt but subsequently realised she had only been assisting her daughter with payments. They said that whilst the DRO would remove any liability from Miss A for the debt, it wouldn't remove Miss A's daughter's responsibility for it. And regardless, they explained that they were advising Miss A on *her* debts and not her daughter. They said if there was any possibility Miss A would be liable for the debt it was right to include it in the DRO. So they didn't think they'd done anything wrong.

But Miss A disagreed and she referred her complaint to this service. Our investigator considered all the information but didn't think Haringey CAB had been wrong to include the debt in the DRO. She noted that there'd been no formal arrangement for Miss A to take responsibility for the debt and it was still her daughter's but she thought Haringey CAB had been right to include it in the DRO list as there appeared to be some doubt as to whether the debt was Miss A's responsibility. Their guidance suggested debts should be included if there was any doubt. So she didn't think Haringey CAB had done anything wrong.

But Miss A did and she asked for a final decision by an ombudsman. She said it wasn't her idea to include the debt in the DRO, it was the businesses, and that advice was wrong.

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 know it will disappoint Miss A but I don't think Haringey CAB have made a mistake here. Please let me explain why.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

A DRO freezes an applicant's debt repayments for 12 months (the moratorium) and if the financial position doesn't change the debts attached to the DRO will usually be written off.

So when Haringey CAB helped Miss A with her DRO application they would've wanted to include all the debts that Miss A had and, as she mentioned she'd been helping her daughter with payments, I think it's clear they may have considered she was "*severely liable*"

for the debt i.e. she was a guarantor and was jointly responsible. So they would've wanted to include it on any DRO to ensure that Miss A's responsibility for it was cleared at the end of the moratorium. Their guidance on the matter said

"As limitation and enforceability can be such an uncertain area the general rule should be: if in doubt, list it"

And that's what they did.

Miss A's DRO can't change her daughter's responsibility for the debt and I don't think it would be fair to expect Haringey CAB to advise Miss A about this. It was Miss A who was their client, not her daughter. But if Miss A had been a guarantor on her daughter's loan then the DRO would have removed Miss A's liability for the debt (not her daughter's) and I think that's what Haringey CAB were rightly seeking to do in this instance.

So I don't think Haringey CAB need to take any further action here as I'm not persuaded they've done anything wrong.

my final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 21 June 2019.

Phil McMahon
ombudsman