

## **complaint**

Mr L complains that Debt Shield will not refund a £500 fee he paid to it when his involvement with it ended.

## **background**

Mr L became a client of Debt Shield after an initial consultation with its advisor and he completed a questionnaire about his financial situation. On the information provided Debt Shield concluded he should apply for a Debt Relief Order (DRO). But Mr L later revealed in a phone conversation that he had further liabilities and assets leading to Debt Shield revising its advice and concluding that a DRO was not appropriate for him. Debt Shield has declined Mr L's request that it refund the fee he paid it.

Our adjudicator concluded, in summary, that:

- The fee Mr L was charged was in accord with the terms and conditions of the arrangement and was based on a £250 administration fee and the time spent by Debt Shield considering the case;
- Mr L had not fulfilled his obligation to Debt Shield to ensure he gave it accurate information in the questionnaire he completed;
- Debt Shield reserved the right in its terms and conditions not to refund the fee when the arrangement was terminated by the client and any refund was at its discretion;
- It was not unreasonable in this case for it not to make a refund;

In the circumstances, the adjudicator considered Debt Shield's offer to refund £100 of its fee to Mr L, in full and final settlement, to be fair and reasonable.

Mr L does not agree. He says, in summary, that he considers he did tell Debt Shield about his assets and liabilities and it said it could still help him. He considers it has committed a criminal offence.

## **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 am not persuaded that Mr L provided a full and accurate disclosure of his assets and liabilities in the questionnaire he completed for Debt Shield as he suggests.

I am also satisfied that it advised him both on the information provided in the questionnaire he completed and again when he disclosed further information to it on the phone.

Debt Shield's terms and condition make clear that its fee is based on an administration fee and the time it will spend on a case. In this case it explains that it carried out considerably more work for Mr L than it had anticipated or charged for and as a result it was not prepared to increase its offer to refund £100 to him.

I note that Debt Shield concluded in its letter to Mr L of 24 July 2012 (in response to the new information provided on the phone by him) that "*to enter bankruptcy or to apply for a Debt*

*Relief Order would not be in your interest at all...* and *"This concludes the financial review from debt shield ..."*.

I find that Debt Shield ended its relationship with Mr L at that point (as it was entitled to do) as it had completed its retainer in considering and advising him on his financial position on two occasions. As such I do not consider it was obliged to refund all or part of its fee to Mr L. Overall, in all the circumstances I consider its offer to refund £100 is fair and reasonable.

I also note that the agreed fee shown in the contractual documentation was in fact £495 but Mr L appears to have paid £500. I therefore consider it reasonable that Debt Shield should now refund the £5 over payment to him.

My role as an ombudsman is to consider the individual complaint and decide whether something has gone wrong. But a court may take a different view of the situation. Should Mr L not accept my final decision then any rights he may have to take action in the courts against Debt Shield are unaffected and he will be free to pursue his arguments – including whether criminal acts have taken place - in any court action that may arise, if he so wishes.

### **my final decision**

For the reasons I have set out above, although I recognise Mr L's obvious frustration and strength of feeling, my final decision is that I partly uphold this complaint and, in full and final settlement of it, I order Hamilton and Clarke Ltd trading as Debt Shield to refund the total sum of £105 to Mr L.

Stephen Cooper  
**ombudsman**