

complaint

Mrs B, represented by a claims management company (CMC), complains that Butler-Do Ltd (the business) mismanaged her debt management plan (DMP).

background

Mrs B says that she entered into a DMP in 2010. She says that at this time she was not made aware that there were free debt services available. She also complains that she was not told the impact the DMP would have on her credit file or that her creditors could continue to charge interest and fees.

The business says that before Mrs B signed up to the DMP in 2010 its terms and conditions and a letter of authority were sent to her. It says Mrs B signed to acknowledge she had read and understood the terms and conditions. It says the terms and conditions included information stating that it would attempt to agree with creditors to freeze or reduce interest and charges but that it couldn't always prevent these being levied. It says this information was also included in its compliance statement which was read out to Mrs B on the initial advice call. The business says that Mrs B was told on the initial advice call that her credit rating would be affected.

In regard to the availability of free debt services, the business says it was not required to inform Mrs B of these. It says that it complied with the guidance in place at the time.

The adjudicator did not uphold this complaint. She said that the business had provided details of the information given to Mrs B and that this clearly stated that it could not prevent creditors applying charges. She said that the business had also shown that it would have discussed with Mrs B the impact on her credit file and that Mrs B's letter states that she was aware her credit rating would be affected.

In regard to free debt services, the adjudicator said that the business was not required to signpost customers to free debt services at the time Mrs B took out her DMP.

The CMC said that Mrs B should have been made aware of the free debt service available. It said that the Office of Fair Trading (OFT) guidance review set out the expectation on debt management companies to tell customers about all the options available including the availability of free debt services. It said that the 2012 guidance reaffirmed the need to tell customers about the free services and that this should have happened at the review date.

The CMC also said that Mrs B's DMP was still in place after 2014 when it became a requirement to inform customers of the availability of free debt services.

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 have looked at the terms and conditions relevant to the time when Mrs B entered into her DMP. I have also looked at the compliance statement that would have been read out to Mrs B. These set out that attempts will be made to get creditors to freeze interest and charges. It then states that creditors may continue to charge interest and recovery charges and that the business can not always prevent this happening.

In regard to the affect on Mrs B's credit file I have seen a letter from Mrs B dated January 2016 where she says she was aware her credit rating would be affected.

Based on this I find that Mrs B was given the information she needed to be aware that charges may still be applied to her debts and that her credit file would be affected.

The other issue raised on Mrs B's behalf relates to information about the free debts services available. Mrs B entered into her DMP in 2010. At that time the guidance in place did not require the business to inform Mrs B about the free debt services available. The business has said that it did make referrals to the free debt service providers where appropriate.

I appreciate the comments made about the subsequent guidance however, based on the information I have been provided I do not find that the business has done anything wrong.

my final decision

My final decision is that I do not uphold this complaint.

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

Jane Archer
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