

complaint

Miss R, represented by a claims management company (CMC), complains that Debt Release Direct Limited did not inform her about the free debt services available when it took over her debt management plan (DMP).

background

Miss R entered into a DMP which was transferred to the business in November 2014.

The CMC initially said that the DMP was not the most suitable solution for Miss R and that a debt relief order (DRO) would have been more appropriate. The CMC also raised concerns that the monthly management fees were not explained to Miss R and that the consequences of the DMP on her credit file were not mentioned. It also said that Miss R was not informed of the free debt services available when the business took over her DMP.

The business responded to Miss R's complaint and following this Miss R accepted that a DRO would not have been appropriate. However the CMC said that other issues raised had not been addressed by the business, specifically that Miss R was not told that services were available for free.

The business says it did not set up the DMP but it did provide a copy of the terms and conditions from the company that did. It says Miss R's DMP was transferred in November 2014 at which time a welcome call was held. It says during this call Miss R confirmed there had been no changes to her income and expenditure and that the monthly payments in place were sustainable. It says that its monthly management fee was set out on this call.

The business provided a copy of the welcome letter it sent to Miss R dated November 2014 which included reference to free debt advice.

The adjudicator did not uphold this complaint. She said that Miss R was told about the business' fees on a call in December 2014 and that they were set out in the terms and conditions. She said that the DMP was not set up by the business and that when the DMP was transferred she would not expect the business to treat her as a new customer. She said that Miss R confirmed during the welcome call that her income and expenditure had not changed.

The adjudicator said that the welcome letter set out the availability of free debt advice. She said that the requirements state that a debt management company must include in its first written or oral communication information about the free debt services and information on where more information can be found. She said that by including the statement in the welcome letter, the business had done enough.

The CMC said that the reference made to free debt services in the business' welcome letter was not sufficient to meet its obligations under the regulations. It said that the business should have told Miss R on the initial call that the same service could be received for free. It also said that the reference in the welcome letter should have said that DMP could be managed on Miss R's behalf without her having to pay a fee. It said that just noting that Miss R could get free debt advice was not enough.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Miss R entered into a DMP with another company and this was then transferred to the business. The business is only responsible for the actions it has taken since Miss R's DMP was transferred and not the original advice given to her.

The CMC has said Miss R was not made aware of the fees and the impact on her credit file. I have listened to a call between Miss R and the business in December 2014 when she asks about the fees charged and is told the amount. Based on Miss R's question it is clear she was aware that monthly fees were being charged by the business. The fees are also set out in the terms and conditions and so I find that Miss R was aware of the fees.

The terms and conditions also set out that entering into a DMP may affect Miss R's credit rating. Miss R also confirmed in the initial call that her payments should remain as set up.

Based on the information provided I have nothing to suggest that the business did anything wrong in the management of Miss R's DMP after it took over responsibility for it.

The DMP was transferred to the business in November 2014. The CMC has referred to the regulations requiring debt management companies to inform customers in the initial contact about the availability of free debt services. It says that the business did not do what was required of it in this regard.

I have listened out the initial call and there was no mention of the free debt services available. However this information was included in the welcome letter sent to Miss R. The welcome letter noted that Miss R could get free advice and signposted the relevant website.

I am satisfied the business did make the consumer sufficiently aware at outset of the availability of fee free providers. The consumer was aware but chose not to do anything about that so I must assume that she was happy to continue with the business.

Overall, 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 Miss R to accept or reject my decision before 15 December 2016.

Jane Archer
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