

complaint

Ms B, who is represented by a claims management company (CMC) says Harrington Brooks (Accountants) Limited (Harrington Brooks) mis-sold her a debt management plan (DMP).

background

Ms B initially took out her DMP with a different company in 2009. The following year that was transferred to Harrington Brooks. Ms B's CMC says when she took the plan out she wasn't made aware of the impact on her credit rating of reducing payments to her debts, she wasn't told about set up fees and she wasn't told other free services were available.

Our investigator didn't uphold the complaint. She didn't think Harrington Brooks was responsible for the initial sale. So she couldn't look at Ms B's concerns about that. She didn't feel Harrington Brooks had to tell Ms B she could get a similar service for free when it took over her plan. And, although the rules in relation to this changed from April 2014, she didn't think that made a difference to Ms B because she was an existing customer.

Ms B's CMC didn't agree. It argued in April 2014 Harrington Brooks was required to tell Ms B she could obtain free services in its first contact with her. So I need to reach a final decision.

my findings

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

As the only point of dispute here is whether Ms B should have been referred to free debt advice I'm only going to deal with this aspect of the complaint in my decision.

Ms B's CMC argues Harrington Brooks hasn't complied with its regulatory obligations because it didn't signpost her to free debt services – and it should have done so in its first contact with her after 1 April 2014.

Before 1 April 2014 the relevant guidance said a referral to free debt advice should be made where appropriate to do so. That would be the case if there were priority debts and/or an immediate emergency, or if the debtor didn't have enough disposable income to afford the fees and their monthly plan payments. However, looking at what Ms B's CMC has said about her circumstances I don't think that applied here.

The rules in place after 1 April 2014 say the availability of free debt advice services should be made in a debt management firm's *"first written or oral communication with the customer"*. But in this case Ms B's DMP was set up prior to this regulation being in place and she'd been in that plan for several years. So I don't think Harrington Brooks has done anything wrong here.

my final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 12 January 2017.

James Park
ombudsman