

complaint

Mrs S complains about the way her Debt Reduction Plan has been handled by Elite Debt Solutions Ltd. She wants a refund and compensation.

background

Mrs S paid Elite £400. She understood Elite would get in touch with her creditors and pay them for her. But Elite did not pay off her creditors; instead it first tried to find out if she was liable for the debts. This meant that her creditors were not being paid off.

The adjudicator upheld the complaint. He said that Elite operates a claims management and a debt management role. He did not think the agreement was clear or understandable and did not properly distinguish between the two different services. The adjudicator did not think that the Office of Fair Trading Guidance (OFT) had been followed. As the agreement did not clearly explain that none of the debt adjusting activities would take place until after liability for the debt had been established. Further, it did not make it clear how long this process could take. And Mrs S was not made aware of the consequences of her creditors not being paid during this time. He said that Mrs S was not fully aware of the service Elite was providing as its documentation was unclear. He therefore upheld the complaint.

He asked Elite to;

- refund the total amount paid by Mrs S less any payments made directly to her creditors (evidence should be made of payments to her creditors).
- pay interest at 8% simple from the date of payment to the date of settlement.
- pay £150 compensation for distress and inconvenience.

Elite did not accept this and said that Mrs S was fully aware of the service she was getting from them. Its agreement was clear.

In response Mrs S maintained she thought Elite would be paying off her creditors and she did not understand about the claim management role. It took a year for Elite to explain that it had not paid any creditors. During this time Mrs S was chased by creditors. This was very distressing.

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 agree with the adjudicator for much the same reasons. Elite's agreement is unclear and does not follow the guidance laid down by the OFT. The agreement does not mention that her debts could increase and she was not warned that creditors did not have to accept reduced payments. Further, I accept that she did not understand that Elite would first try to establish if she was liable for the debts, and during this time it would not be paying off her creditors. The agreement did not make this clear. Nor did it state how long this process could take. I accept that this caused her distress and inconvenience. I therefore uphold this complaint.

my final decision

My final decision is that I uphold this complaint and direct Elite Debt Solutions Ltd to;

- refund the total amount paid by Mrs S less any payments made directly to her creditors (evidence should be made of payments to her creditors).
- Pay interest at 8% simple from the date of payment to the date of settlement.
- treat the contract with her as coming to an end.
- pay £150 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs S to accept or reject my decision before 21 May 2015.

Clare Hockney
ombudsman