

## **complaint**

Mr B has complained that Marks & Spencer Financial Services Plc ('M&SFS') is chasing him for a debt he should no longer owe.

## **background**

Mr B owed money to M&SFS. As he was experiencing financial difficulties, he entered into a debt management plan with it in November 2012, which was to last for three years. He believed that at the end of the three years, provided he maintained his repayments, the outstanding balance would be written off. M&SFS have said that wasn't the case, and the end of the three years was simply the end of the plan. Any outstanding balance would still be payable.

Our adjudicator recommended that the complaint should be upheld in part. He didn't think there'd been an agreement to write off the balance at the end of the plan. But he did think a letter M&SFS sent to Mr B when it was set up was misleading. He thought it should pay Mr B £100 compensation for the upset this caused.

M&SFS disagreed. It didn't think the letter was misleading. It said Mr B knew he had an outstanding balance, and he also knew how the process worked, as he'd had a previous plan with it, which had ended in May 2012. It didn't feel he'd suffered any financial detriment.

Mr B also disagreed. He explained that he felt M&SFS should be held to the terms it proposed in the letter of 5 November 2012, which he believes were that the account would be closed after his final repayment under the plan, and no more would be owing. He feels the wording is clear, and not open to interpretation. 'Account' clearly means his credit card account, not the debt management plan.

He also said the November 2012 letter was markedly different from that received in respect of his earlier arrangement with it. That letter had expressly referred to an annual review of the arrangement, whereas the November 2012 letter didn't. Further, the earlier letter hadn't included an end date for payments to the account.

The complaint's now been passed to me for my 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.

The debt management plan started in November 2012, to run until November 2015. It wasn't going to cover the full amount owed, but Mr B feels that when the plan expired, the outstanding debt would be written off. He's explained this is what was set out in M&SFS's letter to him dated 5 November 2012, which referred to a 'final payment on [the] account'. He feels this clearly refers to the account then ending – ie being closed with no further money due – not just the debt management plan expiring.

I've looked at this in the context of the rest of the letter, which earlier said: "The details of your debt management plan are as follows...". It then sets out the monthly repayments, and when the first and last are due. It is by the last that it says 'final payment on account'.

I can see why this could have caused confusion. But in no correspondence, including this letter, did M&SFS expressly agree to write off the outstanding debt. I can see why Mr B inferred this from the word 'account'. I think the use of this word is unfortunate, but I think it reasonable to see this as referring to the debt management plan, when taken in the context of no express agreement having been entered into to write off the balance.

I think the correspondence in respect of the earlier and later plans would have been different, as the second plan was for a set three year period, and not subject to an annual review.

But I do think the wording led to Mr B feeling upset and disappointed, and I agree it should have been clearer. This led to Mr B having a loss of expectation. But I don't think it fair that I go so far as to say there was a definite agreement in place to write off the balance. Like the adjudicator, I think £100 compensation is fair to address Mr B's disappointment.

### **my final decision**

For the reasons given above, it's my final decision to uphold this complaint in part. I require Marks & Spencer Financial Services Plc to pay Mr B £100 compensation for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 February 2017.

Elspeth Wood  
**ombudsman**