

## **complaint**

Mrs B complains that Harrington Brooks (Accountants) Limited mis-sold her a debt management plan. She says it didn't do enough to manage her debt.

## **background**

The background to this complaint is summarised in my provisional decision dated 22 March 2017, a copy of which is attached.

I was minded to conclude that the complaint should be upheld. I thought Harrington Brooks hadn't done enough to manage Mrs B's debts and that it should pay her the creditors' interest and charges from 10 June 2014; refund 75% of its fees from 6 April 2007, plus interest; and pay her £150 for the trouble and upset caused.

Mrs B agreed with my provisional decision. Harrington Brooks provided some additional contact notes from its records to show the contact it had had with Mrs B's creditors from 2005 to 2010.

## **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 carefully considered Harrington Brooks' further evidence, but I see no reason to depart from my provisional decision. I cannot consider the action it took before April 2007, for the reasons explained in my provisional decision. I can see that there was some contact during 2008 to 2010, but there isn't enough evidence to show me that Harrington Brooks did enough to try to repay the debts within a reasonable timescale.

## **my final decision**

My final decision is that I uphold this complaint. In full and final settlement I order Harrington Brooks (Accountants) Limited to:

1. Pay Mrs B the interest and charges she was charged by her creditors from 10 June 2014 to the date of settlement.
2. Refund 75% of its monthly fees charged from 6 April 2007 to when the plan closed, plus interest at 8% simple from the date the fee was charged to the date of settlement. †
3. Pay Mrs B £150 for the trouble and upset caused.

† HM Revenue & Customs requires Harrington Brooks to take off tax from this interest. Harrington Brooks must give Mrs B a certificate showing how much tax it's taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 2 June 2017.

Elizabeth Dawes  
**ombudsman**

## **copy of provisional decision**

### **complaint**

Mrs B complains that Harrington Brooks (Accountants) Limited mis-sold her a debt management plan. She says it didn't do enough to manage her debt.

### **background**

The debt management plan was set up in August 2005. She says she was told her debts would be repaid after five years. But in 2016 she was told it would take a further 11 years to repay her debts. She says her creditors continued to charge interest until, following her contact with Harrington Brooks in 2016, it contacted her creditors and they agreed to freeze interest and charges. She wants Harrington Brooks to refund its fees and to refund her the interest that's continued to accrue on her debts.

Our adjudicator explained that we aren't able to consider complaints about events which took place before 6 April 2007. After that date, he thought that Harrington Brooks had acted reasonably in managing Mrs B's plan and that there was never a guarantee that interest and charges would be frozen.

Mrs B didn't agree. She said, in summary, that:

- She was disappointed we couldn't look at events that took place before April 2007, but understood the position.
- Harrington Brooks only contacted her creditors to request that they freeze interest after she prompted it to do so and after the plan had been running for 11 years.

### **my findings**

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

Mrs B entered into a DMP with Harrington Brooks in 2005. The adjudicator has explained that this service can't consider complaints about debt management when the events occurred before 6 April 2007. This means I can't consider whether the advice to enter into a DMP was suitable, or comment on what Mrs B says about the plan lasting five years. I can only consider events from 6 April 2007 onwards.

I am minded to uphold the complaint because I think there have been failings in the way the plan has been managed. Let me explain why.

Mrs B hasn't suggested that payments weren't made to her creditors. But the plan has been running for 11 years and in 2016 Harrington Brooks estimated it would take another 11 years for the debt to be cleared. It seems to me that this is a long time for a debt management plan to be in place if the debt manager has been doing all it can to ensure the debt is repaid as soon as possible, bearing in mind the monthly payments must remain affordable. Disappointingly, Harrington Brooks says it can't comment on the length of plan because it's now closed.

One way of ensuring the debts are repaid as quickly as possible is for interest and charges to be frozen. Whilst there is no guarantee that creditor interest and charges will be frozen under the plan, I would expect to see evidence that Harrington Brooks has tried to achieve this. It says it would've sent a letter to Mrs B's creditors at the start of the plan but that creditors may only reduce interest and charges for a short period, or not at all. I haven't seen any evidence that Harrington Brooks contacted Mrs B's creditors to seek a reduction in interest charges from 2007 until May 2016. In June 2014, following contact from Mrs B, it told her "*neither [creditor] has been applying interest*

*and charges*". But there's no evidence to support this and it seems to be contradicted by its action in May 2016 when it told Mrs B that, "*neither of your creditors have advised yet on whether they would be willing to freeze the interest on your account.*" It seems Harrington Brooks was prompted to contact Mrs B's creditors because she'd asked it whether interest was still being charged. In response to Harrington Brooks' request, both creditors agreed to freeze interest. This suggests to me that, firstly, Mrs B was mis-advised in 2014 when she was told interest and charges weren't being applied; and secondly that her creditors may have been willing to freeze interest and charges at an earlier date if Harrington Brooks had requested it.

Harrington Brooks should have contacted Mrs B at least once a year to review the plan. From the contact notes it's provided, I can see that it tried to contact her in 2011 and 2012, but didn't receive a response. It's difficult to know what happened between 2007 and 2011 – there's no evidence to suggest Harrington Brooks contacted Mrs B, but this isn't surprising due to the time that's passed. In 2011 it clearly tried on a number of occasions to make contact, but Mrs B hadn't kept it informed of her new contact details. So there isn't enough evidence for me to conclude that Harrington Brooks acted unreasonably in its attempts to review the plan – there is some evidence that it tried to contact Mrs B, but she didn't tell it her new contact details.

It would seem that the first time the plan was discussed was in 2014 when Mrs B contacted Harrington Brooks to say she thought she would've repaid her debts by now. Harrington Brooks told her interest had been frozen and everything was OK with the plan. As noted above, I don't think this was the case.

Mrs B paid Harrington Brooks a monthly fee to manage her debt plan. It collected her monthly payment and paid it to her two creditors on time. But I don't think it did enough to help Mrs B repay her debt within a reasonable time.

It's difficult to say with any degree of certainty whether Mrs B's creditors would've frozen interest and charges earlier than they did if Harrington Brooks had requested it. So I can't order Harrington Brooks to repay Mrs B the interest she's been charged. But because it told Mrs B that interest and charges had been frozen in June 2014, I think it should pay her the amount she was charged from this date. It's also difficult to say what Mrs B would've done differently if she'd known that interest and charges hadn't been frozen and if she'd known her debts weren't being reduced as quickly as she'd anticipated. In the circumstances I consider it fair and reasonable that Mrs B should receive a refund of a proportion of the monthly management fees she paid since April 2007. Considering the evidence as a whole, I think 75% would be a reasonable figure.

Mrs B didn't closely monitor what was going on, but I also think it's fair that Harrington Brooks compensate her for the trouble and upset its failings have caused. In the circumstances I consider £150 to be fair and reasonable.

I understand the plan has now been cancelled and Mrs B is communicating directly with her creditors.

### **my provisional decision**

For the reasons I have explained, my provisional decision is that I am minded to uphold this complaint. Harrington Brooks (Accountants) Limited should:

1. Pay Mrs B the interest and charges she was charged by her creditors from 10 June 2014 to the date of settlement.
2. Refund 75% of its monthly fees charged from 6 April 2007 to when the plan closed, plus interest at 8% simple from the date the fee was charged to the date of settlement.
3. Pay Mrs B £150 for the trouble and upset caused.

HM Revenue & Customs requires Harrington Brooks to take off tax from this interest. Harrington Brooks must give Mrs B a certificate showing how much tax it's taken off if she asks for one.

Elizabeth Dawes  
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