

complaint

Mr B complains about a debt management plan he took out with The Debt Dissolver Ltd. He is unhappy that the payments he has made to The Debt Dissolver have not been passed to his creditors.

background

Mr B entered into a debt management plan with The Debt Dissolver around September 2012. He made regular monthly payments and these were to be passed on to his respective creditors, with a fee being retained by The Debt Dissolver.

Mr B has realised a considerable number of his payments have not however been passed to his creditors and after not being able to resolve his complaint with The Debt Dissolver, he referred it to us.

The complaint was considered by one of our adjudicators, who recommended it be upheld. He did not receive a response from The Debt Dissolver so based his findings on the information he had managed to obtain from other parties, which included the creditors. The adjudicator did not consider that The Debt Dissolver had administered the debt management plan appropriately and he set out what redress he considered to be appropriate.

The Debt Dissolver did not respond to the adjudicator so the complaint has been referred to me for consideration.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have upheld this complaint.

It is disappointing that we have not received a response from The Debt Dissolver but we have received a considerable amount of information from Mr B's creditors. This information shows the payments that were received by the respective creditors and it is clear that The Debt Dissolver failed to pass on all of the required repayments to the creditors. Mr B made regular payments to The Debt Dissolver each month but there were a number of months where no payments were passed to creditors. Other months also had very little passed to the creditors. Of the payments that I am able to consider in this complaint only around 58% of what Mr B paid to The Debt Dissolver was actually passed to his creditors. Even when considering there was a monthly management fee deducted by The Debt Dissolver, this is a disappointingly low amount to be passed to creditors.

Having considered the circumstances here I find that The Debt Dissolver failed to administer the debt management plan in a reasonable or satisfactory way. A considerable number of payments were not passed to Mr B's creditors and this is in my view a significant failing. The Debt Dissolver has not provided any reasons for this failing or the lack of payments.

I do not think it would be reasonable for The Debt Dissolver to retain the money that should have been passed to Mr B's creditors and this should therefore be refunded. Considering the very limited number of payments that were passed to the creditors, I also think it is unreasonable for Mr B to have to pay the management fee that The Debt Dissolver charged

each month. The Debt Dissolver should therefore refund the payments Mr B made, with interest, less the payments that were passed to his creditors.

The Debt Dissolver was acting on Mr B's behalf at times when it was not authorised to do so, as it did not hold a consumer credit licence. I can only consider the actions of The Debt Dissolver during the periods it held a consumer credit licence and Mr B paid £3,000 in payments to The Debt Dissolver during this time. During the same period, Mr B's creditors were paid £1,741.08.

Mr B also incurred additional charges and interest that are likely to have been applied as a result of The Debt Dissolver's failings. These amount to £221.64 (£161.64 + £60) and I think it would be reasonable for The Debt Dissolver to refund these to Mr B.

Finally, I also consider that the failure to administer the debt management plan appropriately, along with the continued lack of response to his complaint, would have caused Mr B some distress and inconvenience. I think that The Debt Dissolver should therefore make an additional payment in respect of this and having considered the circumstances of this complaint I find that £350 is a reasonable sum.

my final decision

My final decision is that I uphold this complaint and direct The Debt Dissolver Ltd to pay Mr B:

- A. £1,258.92 (which represents the £3,000 paid less the £1,741.08 passed to creditors);
- B. £221.64 that represents the interest and charges applied by the creditor(s) and,
- C. an additional £350 for the distress and inconvenience caused.

Interest at 8% simple per year should be added to the refunded payments in A above from the date of each payment until the date of settlement.

If The Debt Dissolver does not issue the settlement within 28 days of this final decision it should also add interest, at the same rate set out above, to the payments of £221.64 and £350.

If The Debt Dissolver believes that tax should be deducted from the interest element of my award it should provide Mr B with a tax deduction certificate so he can reclaim the tax if required.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr B to accept or reject my decision before 10 December 2014.

Mark Hollands
ombudsman