

complaint

Miss M complains that Shoosmiths LLP refused to accept her repayment plan and has not worked with her to resolve her debt.

background

Miss M owes money to a building society and she suggested a monthly payment regime which would take some 200 years to pay off the debt. The society suggested a five year repayment plan would be acceptable, but Miss M does not agree. The society says it does not want to enter into a payment arrangement that would be unaffordable for Miss M. However, as Miss M could not make payments that would pay off the debts in a reasonable time, the society asked Shoosmiths to obtain a charging order over her property. This means that if she sells or re-mortgages the property the outstanding debt would be recovered from the proceeds. Shoosmiths has confirmed that it is not the society's policy to enforce the sale of a property. No interest is accruing on the debt now that it has been passed to Shoosmiths.

Miss M also complained that Shoosmiths took over eight weeks to respond to her complaint. The firm accepts it was slow to respond and has offered to pay her £50 compensation for the delay.

The adjudicator agreed that this complaint should be upheld in part. She considered Shoosmiths had not made an error in seeking the charging order. Miss M was not being pressed to increase her offer and the society was merely protecting its members' interests. She did consider that Shoosmiths had been late in responding to Miss M's complaint and suggested compensation of £50. Shoosmiths agreed. Miss M did not agree and said she believed she was misled by Shoosmiths.

my findings

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

Miss M is unhappy that Shoosmiths has not worked with her to reach an agreement to repay her debt. I consider Shoosmiths has not pushed Miss M to increase her repayments. An employee said to her several times in the course of a phone conversation that he was not asking her to pay more than she could afford. For her part Miss M has made clear that she is unable to afford to make payments which would repay the debt in a reasonable timescale. In order to protect the society and ensure the debt is paid in due course I consider it reasonable for Shoosmiths to instigate legal proceedings. If granted, the charging order will result in the society being able to collect any outstanding debt, if and when she sells or re-mortgages her house. In addition, the action taken by Shoosmiths means that no further interest is being added to the debt and Miss M is able to pay off as much as she can afford each month.

I appreciate that Miss M says that other creditors have accepted her offers to repay them at a similarly low monthly payment. However, Shoosmiths is entitled to take legal action to protect its client's interests. I conclude that Shoosmiths has not made any mistakes in its handling of Miss M's debt.

However, it was slow to respond to Miss M's complaint and it took some 12 weeks to reply to her. For the resulting inconvenience this caused, the adjudicator has recommended that it pay Miss M £50. In all the circumstances I consider that £50 is fair and reasonable.

my final decision

My final decision is that Shoosmiths LLP should pay Miss M £50.

Ivor Graham
ombudsman