

complaint

Miss S complains that HB Financial Solutions Limited, trading as Harrington Brooks Debt Management, ("HB"), didn't repay her creditors promptly and so caused delays in the updating of her credit file which resulted in her being declined credit.

background

Miss S entered into a debt management plan with HB in May 2014. On 10 November 2014 she sent HB £4,000 which was to be used to pay off all her debts in full and final settlement. HB confirmed to her in a letter dated 30 December 2014 that it had completed its negotiations with her creditors to settle her debts and it had submitted her money to the relevant creditors. It said that it could take 30 to 60 days for her credit file to be fully updated. But Miss S continued to receive chasing letters from some of her creditors and she had to phone HB about these on numerous occasions in 2015, and in 2016 and 2018. Miss S noted that her credit file in 2018 showed one of the debts was still active with an outstanding balance. She was unhappy at the time she had spent dealing with the matter and concerned that she had been refused credit due to the adverse contents of her credit file caused by HB's delays.

HB's final response letter said that there had been an error in its finance department so Miss S's payment to settle her debts had been made outside the 30 to 60 days period during which final payments should be made. It also noted that one of the lenders hadn't updated Miss S's file by 2018. But it had spoken to that lender and asked it to update Miss S's credit file. HB offered Miss S £50 compensation and offered to refund its fees of £454.78 plus interest on this sum less tax, making a total refund of £551.80.

our investigator's view

The investigator concluded that HB hadn't provided the level of service Miss S had paid for and reasonably expected. She said that HB could've done more to process Miss S's payment when promised. She noted that HB had also acknowledged this and offered Miss S a refund of fees and £50 compensation. The investigator also said that Miss S had explained that she was being chased by her creditors, and she'd chased HB a number of times to get things sorted. Miss S had explained the worry and stress this had caused her, as well as financial difficulty. Taking this into account, the investigator recommended that HB pay Miss S £150 compensation for the distress and inconvenience it had caused her. This was in addition to the £50 compensation HB had already offered Miss S.

Miss S responded to say that HB hadn't yet paid her the £50 compensation, nor had it refunded her the fees she'd paid. She was also upset that her credit file couldn't be corrected by HB and said that her debts should be dropping off her credit file two years earlier than they would due to HB's delay. Otherwise she was happy with the investigator's view.

The investigator explained that Miss S's creditors would need to update her credit file and that she should contact them about this. The investigator also said that she had been informed that HB was in administration. Its administrators had said they were not in a position to be able to confirm whether or not they accepted the investigator's view and recommendation for compensation. But they would await my final decision.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Miss S and to HB on 6 August 2018. I summarise my findings:

As some of the evidence was either incomplete or contradictory, I'd made a decision on what I thought was most likely to have happened – based on what was available.

I noted that Clause 4.11 of HB's terms and conditions said that money would be distributed to creditors within five working days of it being cleared or as soon as reasonably practicable. But I noted that HB didn't distribute the settlement money to most of the creditors until 20 March 2015 which was well outside its contractual terms. It also appeared that one lender was paid on 12 July 2016 and another was paid on 1 December 2014.

HB's contact notes referred to HB not being able to set up a "FFS" after it received Miss S's settlement money. I took this to mean a full and final settlement. I could see that Miss S had chased HB to check the settlement on 11 December 2014. HB said the settlement was completed on 30 December 2014 and wrote to Miss S to confirm this. But because Miss S continued to receive chasers from her creditors she had to call HB on numerous occasions in 2015, and also in 2016 and 2018 to investigate why she was receiving chasers.

So I could see that HB hadn't acted in line with its terms and conditions and this had caused Miss S distress and inconvenience, for which I'd agreed with the investigator that Miss S should be compensated. I'd noted that HB offered Miss S a refund of fees totalling £551.80 and £50 compensation. It didn't appear that these had yet been paid to Miss S. But I thought that Miss S should receive an additional £150 compensation for her distress and inconvenience. I'd noted that Miss S had spent considerable time contacting HB about her debts since making her payment in settlement of them.

I also noted that Miss S was concerned that HB's delays would cause a delay in the removal of her debts from her credit file. Miss S had provided this service with a copy of her credit file. I could see that she had a number of defaults. I explained that these would remain on her credit file for six years from the date of default. As the defaults were made before Miss S paid her settlement amount to HB, I didn't think that HB's delays would delay the removal of these debts.

I also noted that another lender had failed to clear Miss S's balance from her credit file despite having received money in settlement of its debt from HB. I couldn't say that HB was responsible for that lender's actions. I said that if Miss S hadn't done so already, she could address her concerns about that lender's delay directly with that lender.

I could also see that Miss S believed that she had been declined credit because of HB's delays. The investigator asked Miss S for evidence of credit being declined and I'd seen a letter from one potential lender which declined a loan due to the status of her credit report and a previous loan decline. Having seen Miss S's credit report which showed her late payments, defaults and reference to Miss S being on a debt management plan, on balance, I thought it unlikely that HB's delays and the effect of these on her credit file were the sole (or main) reason that Miss S couldn't get credit. So, I didn't intend to uphold this aspect of Miss S's complaint.

Subject to any further representations by Miss S or HB my provisional decision was that I intended to uphold this complaint in part. I intended to order HB Financial Solutions Limited, trading as Harrington Brooks Debt Management, to:-

1. Pay Miss S £200 compensation for distress and inconvenience; and
2. Refund £551.80 to Miss S in respect of fees.

HB must pay the compensation within 28 days of the date on which we tell it Miss S accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

If HB considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Miss S how much it's taken off. It should also give Miss S a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Miss S and HB's administrator accepted my provisional decision. HB's administrator said that Miss S would need to complete a proof of debt form in the administration of HB as the amounts stated in my decision would rank as an unsecured claim.

my findings

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

As Miss S and HB's administrator have accepted my provisional decision, I see no reason to depart from the conclusions I reached in my provisional decision. It follows that I uphold part of the complaint and require HB to pay Miss S some compensation as set out below.

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order HB Financial Solutions Limited, trading as Harrington Brooks Debt Management, to:-

1. Pay Miss S £200 compensation for distress and inconvenience; and
2. Refund £551.80 to Miss S in respect of fees.

HB must pay the compensation within 28 days of the date on which we tell it Miss S accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

If HB considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Miss S how much it's taken off. It should also give Miss S a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 10 September 2018.

Roslyn Rawson
ombudsman

