

complaint

Mr K's complained about a debt management plan he entered into with Debitum Limited. He's unhappy that despite paying £200 a month, only some of this was being passed to his creditors. And in the end his debts weren't cleared.

background

Mr K entered into a debt management plan with Debitum in 2010. He says it agreed that it would arrange reduced payments to his creditors and that after making his payments to Debitum, the debts would be cleared. Mr K agreed to pay Debitum £200 a month. He's told us he made a total of 52 payments.

Debitum wrote to Mr K's creditors in 2010 with proposals for reduced payments. But later, Mr K found out that his creditors hadn't accepted the reduced payments as settling his debts. So he was told by them that he still owed money. In early 2016, Mr K was told by Debitum that it wasn't able to help him anymore.

Mr K says Debitum's treated him unfairly. He says it made unrealistic promises about what it could do. And he says if he'd known that no agreement had been reached with his creditors to clear his debts he wouldn't have agreed to the plan in the first place. So he wants Debitum to refund his monthly repayments.

Debitum hasn't responded to Mr K's complaint.

An investigator at this service looked into Mr K's complaint. He thought Debitum had acted unfairly. So he suggested it refund the amount Mr K had paid it, less any money it had passed to his creditors. He also suggested that Debitum pay Mr K an additional £400 for the trouble and upset caused as a result of the service it had provided him.

I issued my provisional decision for this complaint in June 2017. In it, I explained that I was planning to uphold Mr K's complaint. This was because:

- I'd looked at the documents we'd been given from when Mr K entered into the plan with Debitum. It seemed to me Mr K expected that by agreeing to pay Debitum the monthly instalments, it would then reach an agreement with his creditors to clear his debts.
- And I believed he also understood that Debitum would, at the very least, pay his creditors the amount that was sent out in the original letters sent to settle his debts.
- But it didn't look like Mr K's creditors ever agreed to accept the reduced payments to clear the debt. So it looked like Mr K paid Debitum for a service that it wasn't able to deliver.
- We'd been given documents which seemed to have come from Debitum. And we'd also been given information by some of Mr K's creditors. These indicated that Debitum didn't actually pass on the amounts it had told Mr K it was going to.
- Given his financial situation, I thought it was unlikely Mr K would've agreed to use Debitum's services if he'd known it wouldn't be passing on the agreed amounts. Nor

did I think he would've agreed to this if he'd realised that Debitum hadn't reached an agreement with his creditors first.

- In the end, he was left with a debt to pay that was higher than if he'd paid the money directly to his creditors. So I thought Debitum needs to compensate Mr K to put things right.
- To put things right, I suggested Debitum repay Mr K the total amount of the payments he made to it, less the amounts it passed to his creditors. I explained how I'd reached an amount felt was the right compensation for this. I also suggested it pay him an additional £400 for the trouble and upset its action had caused him.

Mr K responded to my provisional decision and didn't raise any further points he wanted to be considered. Debitum hasn't responded. As the deadline for providing further information's now passed, I think it's fair to go ahead and issue my final decision.

my findings

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

As no new information's been given, I don't see any reason for me to change what I'd previously said in my provisional decision. So for the reasons explained above and in my provisional decision, I'm upholding Mr K's complaint.

From what I've seen, I don't think it's likely Mr K would've gone ahead had he known what would've happened. So Debitum needs to compensate him to put things right.

putting things right

Mr K's told us he made 52 payments, each for £200, to Debitum. He's also given us a number of bank statements from across the period he was making these payments, to show they were made.

I'm satisfied that Mr K made these payments. So this means he paid Debitum a total of £10,400.

Mr K's asked for all of his payments to be refunded. But Debitum did pass on some of the money it received to his creditors. So, this means some of his debts were reduced. So I can't agree he should get all the money back.

It's hard to say exactly how much Mr K would've paid his creditors had he not entered into the plan with Debitum. But I can say it's more likely than not he would've paid them at least the £200 that he passed to Debitum.

So I think Debitum should repay Mr K the total amount of the payments he made to it, less the amounts it passed to his creditors.

The difficulty in calculating how much Mr K should get back is that his debts were passed to different businesses by his creditors. So it's not been straightforward to understand exactly how much of the amount he paid to Debitum went towards his debts.

But I've looked over all the information we've been given through Debitum and Mr K's creditors. And it seems like the best information we've got shows £4,464.25 was passed on. So that means the difference is £5,935.75.

I asked both Mr K and Debitum to let me know if they had other information that shows a different amount was paid. But nothing further has been given. So, I'm satisfied it's fair for Debitum to repay Mr K this amount.

Finally, I think Debitum's actions have caused Mr K a significant amount of trouble and upset. He's had to deal with a number of issues with his creditors – having previously thought that he'd taken action to sort these things out. So, as a result, Debitum should pay Mr K an additional £400 in recognition of this.

my final decision

I uphold this complaint. My decision is that Debitum Limited should pay Mr K £6,335.75 to settle the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 21 August 2017.

Adam Williams
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