

## **complaint**

Mr K complains that Harrington Brooks (Accountants) Limited failed to administer his debt management plan adequately.

## **background**

Mr K set up a debt management plan with Harrington Brooks in November 2009. He says he paid Harrington Brooks "*in excess of £8,000*" but his largest debt – approximately £11,500 at the start of the plan – had risen to over £12,000 two years later. Mr K complains that Harrington Brooks had managed the plan poorly. He is also unhappy that Harrington Brooks failed to provide a detailed breakdown of the plan when he asked for this in February 2012.

Our adjudicator upheld the complaint. He concluded that Harrington Brooks had not administered the plan adequately and had not met the requirements of the Office of Fair Trading (OFT)'s debt management guidance. He recommended that Harrington Brooks:

- refund interest and late payment fees charged by Mr K's creditors;
- refund all payments not distributed to Mr K's creditors, plus interest;
- refund a third of its management fees, plus interest; and
- pay Mr K £100 to reflect the distress and inconvenience this matter has caused him.

Harrington Brooks did not accept those conclusions so the matter was referred to me.

## **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 uphold the complaint. I have, however, amended the award recommended by our adjudicator.

I have reviewed Mr K's bank account statements for the period he was in the debt management plan and compared this against the transaction history that Harrington Brooks provided. Having done so, I am satisfied that he paid Harrington Brooks £3,900 between November 2009 and February 2012. (Note that this takes into account direct debits that were returned unpaid by Mr K's bank.)

Mr K estimated his three debts at £11,000, £1,100 and £250 and agreed to pay £200 per month to the plan. (This was reduced to £140 per month in October 2011 at Mr K's request.) Under the terms of the plan, Harrington Brooks retained Mr K's November 2009 and January 2010 payments as its initial fee. The fee schedule and schedule of payments drawn up at the start of the plan show how the monthly payments were to be distributed thereafter:

- £146.63 per month towards the £11,000 debt.
- £14.75 per month the £1,100 debt.
- £3.35 per month the £250 debt.
- £35.25 per month as Harrington Brooks' management fee.

But this clearly didn't happen. Mr K's creditors have sent us statements for the three debts. These show that the payments they received do not match the payments Harrington Brooks says it distributed. Indeed, at no point during the plan were payments distributed in line with this payment schedule.

debt A: £11,551.13 in January 2010

This debt – which Mr K says he was most concerned about and the main reason he entered the plan – actually increased in the two years Harrington Brooks was dealing with it. It had risen to £12,018.43 by February 2012, prompting Mr K's complaint.

Harrington Brooks says that it was "*making payments to [the agent managing the debt] in respect of [this debt] from 17<sup>th</sup> February 2010 to 15<sup>th</sup> June 2011. Unfortunately they failed to cash some of the cheques we sent them, so we cancelled these cheques and distributed these payments to your other creditors*".

I do not consider this response to be an adequate explanation for why Harrington Brooks failed to make repayments to the debt in line with the plan accepted by Mr K. Rather than simply redistribute these payments to other creditors, it would have been reasonable for Harrington Brooks to investigate why payments were being returned, make alternative arrangements for payment if necessary and tell Mr K of the problem. I also find it difficult to understand why Harrington Brooks took no action to resolve a problem that, by its own admission, persisted for over a year.

Statements for this account show that Mr K's creditor received only £233.92 during the period of the plan. Given Mr K believed he was paying around £150 a month towards it, I do not consider this acceptable.

debt B: £1,135.70 in January 2010

This creditor charged Mr K £16 per month in late payment fees from February to June 2010. I see no reason why Harrington Brooks should not have been able to prevent Mr K from incurring these charges if it had been administering the plan correctly. It follows that it should reimburse Mr K for these charges.

Whilst Harrington Brooks settled this debt, this appears to have been more by accident rather than design. It paid Mr K's creditor £1,234.11 in September 2011 – presumably as part of the redistribution mentioned above – however the outstanding debt at that time was only £1,025.15. It continued to send payments to the creditor until February 2012, when it was told that the account was more than £480 in credit.

Whilst Harrington Brooks refunded this to Mr K in March 2012, I consider this another example of its failure to administer the plan properly. It is difficult to see why Harrington Brooks should not have been aware of the outstanding balance on each of the debts under the plan and why it should have paid over £400 more than necessary towards this debt.

debt C: £34.50 in January 2010

I have seen no evidence that Harrington Brooks sent any payments to Mr K's creditor in respect of this debt. The account statement shows that only three £5 payments were made to the debt before it was settled in February 2011 by a single payment of £108.50. This payment does not appear in the transaction history provided by Harrington Brooks.

conclusion

I am satisfied that Harrington Brooks failed to distribute Mr K's monthly payments in line with the payment schedule agreed at the start of the plan.

I also find that the transaction history for the account does not reflect the true repayment history for Mr K's debts. And even if I accept Harrington Brooks' explanation for why payments to the largest debt were not made, I do not consider its response to this to have been adequate.

I find that Harrington Brooks failed to administer Mr K's debt management plan appropriately or in line with OFT requirements. It follows that Harrington Brooks should refund some of Mr K's fees. Harrington Brooks distributed approximately £2,000 to Mr K's creditors and settled one of Mr K's debts. As such, it would not be reasonable of me to order it to refund all fees. In the circumstances, I find that it should refund 50% of the fees paid by Mr K, plus interest from when Mr K ended the plan. (The transaction history shows that Mr K paid Harrington Brooks £1,138.75; 50% of this is £569.38.) It should also reimburse Mr K £80 for late payment fees charged by one of his creditors.

Harrington Brooks should also refund payments that it says were returned by Mr K's creditors after he cancelled the plan. It is not clear why Harrington Brooks should not have done this already. Harrington Brooks says that this amounts to £230.53. Having considered the information provided by Mr K's creditors, this looks to be reasonable.

Finally, I find that Mr K has suffered a certain amount of distress and inconvenience by Harrington Brooks' failure to administer his debt management plan adequately and by failing to provide a detailed breakdown of his plan when asked. I consider an award of £150 is reasonable to reflect this.

### **my final decision**

My final decision is that I uphold the complaint and order Harrington Brooks (Accountants) Limited to:

- refund 50% of Mr K's fees, amounting to £569.38; plus interest calculated at 8% simple per year from 1 March 2012 to the date of settlement;
- refund £230.53 to Mr K, representing payments returned by Mr K's creditors after Mr K cancelled the plan;
- pay Mr K £80 to reflect late payment fees charged by one of Mr K's creditors; and
- pay Mr K £150 to reflect the distress and inconvenience this matter has caused him.

Simon Begley  
**ombudsman**