

## **complaint**

Mr F's complaint is about the way in which Gregory Pennington Limited administered of a debt management plan (DMP) on his behalf.

The complaint is brought by a claims management company on Mr F's behalf.

## **background**

Mr F first spoke with Gregory Pennington in November 2009 and later entered into a DMP with it. Three years later he decided to enter into an Individual Voluntary Agreement (IVA) with an Insolvency Practitioner.

Mr F says that Gregory Pennington didn't conduct regular reviews of the DMP to ensure it was suitable for him, payments weren't distributed to his creditors frequently and he wasn't told he could get a similar service free of charge elsewhere.

Our investigator didn't think Mr F's complaint should be upheld. She concluded that Gregory Pennington did try to conduct regular reviews but Mr F didn't respond to their requests. She also thought that Gregory Pennington were able to reduce Mr F's debts during the period of their instruction and that they weren't obliged to tell Mr F about free services unless they thought it appropriate to do so.

Mr F doesn't agree. His representatives replied in detail on his behalf explaining why they thought he should've been referred to a fee free service.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I don't think Mr F's complaint should be upheld. I'll explain why.

Mr F says that Gregory Pennington didn't conduct regular reviews of the DMP to ensure it was suitable for him. Gregory Pennington have said that they tried to contact Mr F by telephone several times to carry out a review of his finances beyond their initial instruction. I've seen copies of various letters sent to Mr F. Two were sent in January 2012, one in January 2013 and another in February 2013. Those letters explained that a review of his finances was essential to ensure his DMP was staying on track. I haven't seen anything to suggest Mr F responded to those letters, so I can't say that Gregory Pennington did something wrong by not conducting regular reviews.

I understand that Mr F feels he should've been advised to enter into an IVA at an early stage. Gregory Pennington have told us that it did consider whether an IVA was suitable for Mr F based on the information he gave them. But they didn't think this was appropriate because Mr F wanted to complete his DMP in 65 months. I understand an IVA would've imposed a minimum duration of 60 months, but this could be extended to a maximum of 72 months depending on the level of equity available in Mr F's property at the time. Mr F did have some equity in his property, but Gregory Pennington considered the term and payments Mr F wanted to make were more suited to a DMP.

Gregory Pennington have also said they discussed the possibility of an IVA with Mr F again in November 2011. But Mr F told them he was in the process of reclaiming payments he'd made in respect of a payment protection insurance policy so it was agreed they'd review his account at a later date as Mr F might have had more to contribute to the DMP once this claim concluded. Gregory Pennington weren't however able to conduct that review at a later date for the reasons I've set out above. I understand a conversation took place between Mr F and Gregory Pennington in June 2012 during which his level of payments and the duration of the DMP were assessed again. At that time the DMP had 56 months left to run so Gregory Pennington didn't think an IVA was appropriate.

I know that Mr F has now chosen to enter into an IVA with an Insolvency Practitioner. But this doesn't mean the DMP was unsuitable for him before this time. Based on what Gregory Pennington has said I don't think it sold Mr F a DMP that was unsuitable for his needs or failed to consider whether an IVA was appropriate in place of a DMP during their instruction.

Mr F says that payments from his DMP weren't distributed to his creditors frequently. Gregory Pennington have provided details of the payments they made to Mr F's creditors during the period of their instruction. I can see that payments were distributed fairly evenly and that Mr F's debt reduced by roughly £7,500 over that time. So I don't agree that Gregory Pennington did anything wrong in this respect.

Finally, Mr F says he wasn't told he could get a similar service free of charge elsewhere. Before 1 April 2014, the provider of a DMP wasn't obliged to refer a customer to the availability of not-for-profit advice and services in every case. Relevant guidance<sup>1</sup> at that time, issued by the Office of Fair Trading (OFT), said that a referral to free debt advice should be made where appropriate to do so (Clauses 2.5d and 3.23g of the guidance). The OFT guidance said that this would be the case if there were priority debts and/or an immediate emergency, or if the debtor didn't have enough disposable income to afford the fees and their monthly plan payments. In the circumstances of this case, I don't think there was an obligation on Gregory Pennington to tell Mr F about such services.

In any event, in November 2009 Mr F received a letter from one of his creditors which set out that he could get free services to help him with dealing with his debt. The letter appeared to enclose a leaflet containing the names and numbers of companies that could help him with this. Mr F says he passed this letter straight to Gregory Pennington and that it would've been unreasonable to expect him to read this given their instruction. The letter was sent to Mr F at his home address. Given Mr F would've had to read that letter to find out what it was about, I think he would've been aware that he could get free services elsewhere.

### **my final decision**

For the reasons set out above I don't uphold Mr F's complaint against Gregory Pennington Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 7 December 2016.

Lâle Hussein-Doru  
**ombudsman**

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<sup>1</sup> Debt Management (and Credit Repair Services) Guidance – March 2012 – Office of Fair Trading