Financial Ombudsman Service

complaint

Mr S complains that Foundation for Credit Counselling, trading as Step Change, mis-sold him a debt management plan. The complaint is brought on his behalf by a claims management company. It says Mr S would be in a better position now if he'd been advised to enter into bankruptcy.

background

When Mr S sought advice from Step Change in 2013, he had unsecured debts of around £6,600. He wasn't working but expected his circumstances to change within a year. Step Change took details of Mr S's financial circumstances and recommended a debt management plan, where he would pay £31 each month to his creditors.

Our adjudicator didn't recommend that the complaint should be upheld. She concluded that, although there was no evidence that bankruptcy was discussed in 2013, Mr S wasn't insolvent because he had equity in a property and a car. She thought bankruptcy wouldn't have been the best option for Mr S, particularly as his children lived in the property, and it may have impacted on his ability to find a job. She also couldn't see evidence that he could have afforded the bankruptcy fee.

Mr S didn't agree. His claims management company said, in summary, that:

- Mr S could have sold jewellery to meet the bankruptcy fee.
- Mr S couldn't have realised the equity in the property and he was happy for it to be included within the bankruptcy. But he was never made aware that bankruptcy was an option for him.
- Step Change didn't fulfil its regulatory obligations to advise on the advantages and disadvantages of all potential solutions.

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 the advice to enter into a debt management plan was inappropriate. Let me explain why.

When Mr S approached Step Change for advice, he wasn't insolvent. He had equity in the family home. I think this would have been a key concern for Mr S and it's unlikely that he would've wanted to pass his share of the home to the trustee.
At the very least, Mr S would have needed to take legal advice to make sure he fully understood the consequences of bankruptcy – in particular on his share of the family home. Step Change didn't give him the opportunity to do this. But I think that, in all likelihood, he would've decided to enter into the debt management plan anyway. I say this because he anticipated that it would only be required for a relatively short period as he expected his circumstances to change when he was in a position to actively look for work.

Mr S's representatives have described the financial advantages of bankruptcy, though that is not of course the whole picture. Even where a court accepts that a debtor cannot afford to repay their debts by any other means and bankruptcy is granted, there are also some significant financial disadvantages and consequences from becoming bankrupt.

Looking at the evidence as a whole, the debt management plan appears to have been affordable and was maintained. Mr S's creditors were willing to accept payment of his debts by instalments and his total indebtedness reduced whilst he was in the plan.

Overall, I am not persuaded either that Step Change should have recommended bankruptcy to Mr S as the best debt solution for him, or that the debt management plan was mis-sold.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 October 2016.

Elizabeth Dawes
ombudsman