

## **complaint**

Mr D complains about the way Debt Correct Limited arranged and administered a debt management plan with his creditor.

## **background**

Mr D was having difficulty making full loan repayments and asked Debt Correct to negotiate a debt management plan. It told him that this had been agreed and he stopped making direct payments to the creditor. But Debt Correct took the first two months' payments he made to it as fees and the creditor cancelled the agreement and resumed interest charges. The agreement was reset but there was a delay in the creditor receiving payments. Debt Correct then told Mr D that he would need to pay a monthly administration charge of 15% of his payments. At that time it had not forwarded one of the payments to the creditor.

The adjudicator recommended that the complaint should be upheld and that Debt Correct should refund three monthly payments to Mr D with the addition of simple interest at 8% per annum and pay him £100 in compensation. He said this because:

- Guidance from the Office of Fair Trading ("OFT") about debt management says that consumers should be clearly warned where the first payments from a debt management plan do not go to the creditor.
- There was limited documentation about what had been agreed and a lack of clarity over the fees payable and Mr D had not been sufficiently warned.
- Debt Correct could have done more to manage the debt management plan with the creditor and to trace a missing payment.
- Debt Correct had been slow in sending payments to the creditor, compared to a recommendation from the OFT that this is within five working days, and it still held one outstanding payment.
- As a result Mr D's debt had increased unnecessarily and he had been caused distress and inconvenience.

Mr D did not agree. He said, in summary, that his debt had initially increased as a result of mistakes by Debt Correct. He said he had never stopped making repayments and considers that Debt Correct should be responsible for all of the outstanding balance on the debt which at September 2013 was nearly £5,500.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I can see that Debt Correct did negotiate a debt management plan with Mr D's creditor which meant that monthly payments would be reduced by over £100 and interest would be suspended. But, it told Mr D to stop his existing payments to the creditor before the creditor had confirmed agreement. As a result in October 2009 Mr D made a payment to Debt Correct but his creditor also debited his account for the normal monthly payment.

Mr D seemed to be aware that there would be a fee for the debt management plan and that this would be one month of payments. I agree that there was a lack of clarity around the actual set up fee which was two monthly payments. The impact of this had not been communicated to the creditor, who considered that the plan had failed when these initial payments were not received. In addition, Mr D was required to pay a fee of 15% of his

monthly payments to Debt Correct after six months and I do not consider that this had been made clear to him.

There did seem to be an undue delay in Debt Correct making payments to Mr D's creditor. For example, the payment he made to it in January 2010 was not applied to his debt until February 2010 and when he stopped making payments there was still one payment that had never been sent to the creditor.

I can see that the creditor agreed to reset the plan and that Mr D has been making the reduced payments, with no interest applied since then. Whilst the problems in setting up the plan meant that it was not operational as soon as hoped, I consider the suggested resolution by the adjudicator to be reasonable. As a result Mr D is still responsible for repaying all of the loan to the creditor. He is concerned to still be receiving "arrears notices" from the creditor which are now for the full outstanding amount. But, this is not due to the actions of Debt Correct but a requirement under the Consumer Credit Act 1974 as he is behind with his payments and a payment plan is in place.

I appreciate that Mr D will be disappointed by my decision.

### **my final decision**

In light of the above my decision is that I uphold this complaint. In full and final settlement, I order Debt Correct Limited to:

- 1) Refund three payments each of £231.98 to Mr D.
- 2) Pay Mr D interest on the refunds from the date the payments were originally made to the date of settlement at a simple interest rate of 8% per annum.
- 3) Pay Mr D £100 in compensation.

If Debt Correct considers that it has to deduct tax from the interest element of my award, it should send Mr D a tax deduction certificate when making payment. He can then use that certificate to reclaim tax, if he is entitled to do so.

Michael Crewe  
**ombudsman**