

## **complaint**

Mr M complains that Debt Correct Limited, trading as Debt Correct, ("DC"), didn't provide him with appropriate information when he entered into a debt management plan ("DMP") with it. The complaint is brought to this service on Mr M's behalf by a claims management company ("CMC"). But for ease, I shall refer below to all actions being taken by Mr M unless stated otherwise.

## **background**

Mr M entered into a DMP with DC in October 2013. He complains that he wasn't made aware:-

- of the fee-free services available;
- that interest and charges could continue to accrue;
- of the impact on his credit rating by reducing payments;
- of the set-up fee taken by DC.

Additionally, Mr M said that DC told him that it would waive its £200 set-up fee as Mr M was moving from another debt management company.

The adjudicator didn't recommend that the complaint should be upheld. He noted that DC had said that during its initial call with Mr M, Mr M had been told that he could obtain free advice for the same or similar service from other organisations such as the Citizens Advice Bureau (CAB) or the Money Advice Service. But, DC no longer had a copy of the initial call recording. The adjudicator also noted that this information was shown on DC's website. He also explained that at the time of the sale of the DMP in October 2013, it wasn't a requirement for a business to make a customer aware of fee-free services. He noted that under the Office of Fair Trading's ("OFT") guidance which applied at the time the DMP was sold, a business would be expected to refer to free services in certain circumstances only. These circumstances included difficulties with priority debts or where the fees for the DMP were not affordable. The adjudicator hadn't seen any evidence which indicated that there were any difficulties with priority debts or that the fees were not affordable.

The adjudicator also noted that Mr M had received a Welcome Pack and DC's Terms and Conditions. Mr M had confirmed his acceptance and understanding of DC's Terms of Business and Terms and Conditions when he signed and returned DC's Authority Form. In the Terms and Conditions, it said that interest and charges may continue and that Mr M's credit file may be affected by entering into a DMP. Regarding the set-up fees, a breakdown of fees would have been contained in a covering letter with Mr M's documents at the outset. DC's Terms and Conditions also contained a breakdown of the fees.

The adjudicator also said that DC had looked into the matter of the £200 fee being waived. But, DC said that it had no record of this, and that Mr M had never mentioned it previously.

The CMC disagreed and responded to say, in summary, that Mr M had said that free services were not mentioned to him and that there was no mention of fee free services on DC's website at the time of the sale of the DMP. It also said that the OFT's Debt management (and credit repair services) guidance from March 2012 ("the 2012 Guidance") applied to the DMP. Under this Mr M should have been referred to not-for-profit organisations and that there was an expectation in the 2012 Guidance that debt management companies should have signposted consumers to fee free alternatives. The

CMC also said that DC was expected to make Mr M aware of the free sector under the provisions of the OFT's Debt Management Guidance compliance review dated September 2010 ("2010 Review").

### **my findings**

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

As the CMC has only referred in its response to the adjudicator's view to the lack of a referral to the free debt counselling sector, I propose to only deal with this aspect of Mr M's complaint in my decision.

When Mr M was sold the DMP, the 2012 Guidance applied. The 2012 Guidance specifically said that a referral to free debt advice should be made where appropriate to do so (Clauses 2.5d and 3.23g of the 2012 Guidance). The 2012 Guidance said that this would be the case if there were priority debts and/or an immediate emergency, or if Mr M didn't have enough disposable income to afford the fees and his monthly plan payments. I can see that Mr M's monthly disposable income was assessed at £100, that he was employed and had no priority debts. From the records I have seen (which are not up-to-date), Mr M was able to make monthly payments of £100 from September 2013 until September 2016. Because of this, it appears to me that the fees and monthly plan payments weren't unaffordable.

The CMC also referred to the 2010 Review. I note that the recommendations in the 2010 Review were included in the 2012 Guidance. But, as shown above, in Mr M's circumstances, I don't think that DC was obliged under the 2012 Guidance to refer him to fee-free services.

The CMC had also previously referred to the Financial Conduct Authority's Handbook, and specifically CONC 8.2.4 (1). I accept that after 1 April 2014, a debt management company has a duty to tell consumers that a free service is available. But that is "*in its first written or oral communication*", whereas Mr M had already been in a DMP with DC since October 2013 and received his first written and oral communications before 1 April 2014.

I also note that despite the CMC complaining to DC about the lack of a referral to fee free services in June 2016, from the records I have seen, Mr M has continued with his DMP after that date. So, even though Mr M is now aware he can obtain fee free services elsewhere, he has continued with DC's services.

So, overall, I don't think that DC has done anything wrong in rejecting Mr M's complaint.

### **my final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 December 2016.

Roslyn Rawson  
**ombudsman**