

complaint

Miss C complains about a debt management plan (DMP) she took out with Foundation for Credit Counselling trading as Stepchange. She says that bankruptcy would have been a better option for her. Miss C is assisted in her complaint by a third party. But for ease, I shall refer below to all actions being taken by Miss C, unless stated otherwise.

background

Miss C contacted Stepchange in early 2010. She had debts of £12,190, and had a monthly surplus of £177. Miss C was in full time employment at this time. Stepchange recommended she entered into a DMP with her creditors. It was estimated that this arrangement would last for five years eight months.

Miss C was later made redundant in September 2013. As a result, the payments she was making reduced, and the plan term was extended.

Miss C was able to pay off her debts in full in June 2015. The DMP was ended.

Miss C brought a complaint about the advice she had received. She says that interest and charges were added to her balance after she entered into the DMP. It affected her credit record. Miss C says she should have been made bankrupt.

Stepchange did not uphold her complaint. It said that the terms of the DMP make it clear that her credit record will be affected. Miss C had already missed payments she owed before she saw Stepchange in early 2010. As such her credit file would already have adverse entries on it.

Stepchange says that Miss C's surplus income meant she could pay off her creditors within just over five and a half years. Because of this, she did not need to file for bankruptcy.

Miss C is not happy with this response. She says she would have been debt free much quicker if she had file for bankruptcy in 2011.

The adjudicator did not recommend that the complaint should be upheld. She considered that the terms of the DMP made it clear that creditors could continue to add charges and interest. Default notices had probably been sent to Miss C as she was already in arrears with her payments before the DMP started.

The adjudicator considered that the advice given to Miss C when she entered into the DMP was correct given her position at that time.

Miss C is not happy to accept the adjudicator's recommendation. She says, in summary, that Stepchange did not make her aware of more formal debt solutions. Miss C would have been debt free quicker and at less expense if she had filed for bankruptcy in 2010. This option should have been discussed with her.

my findings

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

Miss C says that no discussion was made of insolvency options before she entered into the DMP. Miss C argues that bankruptcy would have been the best option for her, because she would have been debt-free quicker and without having to make ongoing monthly payments to creditors. Stepchange should have recommended bankruptcy to Miss C, rather than arranging a DMP for her.

It is not certain that a court would have accepted that Miss C could not afford to repay her debts in 2010, and that bankruptcy would have been granted. She had surplus money at that time and was able to arrange a repayment plan to pay off her debts using this sum. It should also be noted that there are also some significant financial disadvantages and consequences from becoming bankrupt which not everyone would be willing to accept.

I note that the advice from the third party that Miss C would have been better being made bankrupt is based on an incorrect premise that she was not working at that time. Miss C was however in full time employment in early 2010. She was not made redundant until September 2013.

Looking at the evidence as a whole, the debt management plan appears to have been affordable when it was arranged. I appreciate it had to be renegotiated when Miss C lost her job, but this did not happen until the DMP had been running for over three years. Mrs C's creditors were willing to accept payment of her debts by reduced payments and her total indebtedness was reduced during the DMP.

Overall, I am not persuaded either that Stepchange should have recommended bankruptcy to Miss C as the best debt solution for her, or that the debt management plan was mis-sold.

I consider that Stepchange collected relevant information from Miss C about her financial situation and that its recommendation to her was reasonable and appropriate in the circumstances. And I'm not persuaded that there's enough evidence to show that Stepchange should've recommended bankruptcy to Miss C. So I find that it wouldn't be fair or reasonable for me to require Stepchange to pay any money to Miss C or to take any other action in response to the complaint.

After looking at Miss C's level of debt and disposable income when she applied for the DMP I can't be sure that Stepchange's proposed solution was clearly unreasonable.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 14 October 2016.

Rosemary Lloyd
ombudsman