

complaint

Mrs K complains that Harrington Brooks (Accountants) Limited, trading as Harrington Brooks Debt Management, ("HB"), didn't provide her with satisfactory advice when she took out a debt management plan ("DMP") with it. The complaint is brought to this service on Mrs K's behalf by a claims management company ("CMC"). But for ease, I shall refer below to all actions being taken by Mrs K unless stated otherwise.

background

Mrs K entered into a DMP with HB in August 2012. Her main complaint is that she should have been told about free debt management advice providers. She also said that she wasn't told that interest and charges might continue to accrue.

The adjudicator didn't recommend that the complaint should be upheld. She noted that the DMP wasn't sold by HB, and so HB wasn't responsible for providing information about free debt management advice providers. She also said that HB's terms and conditions provided that interest and charges may continue, that HB's contact notes said that Mrs K had confirmed in the welcome call with HB that she'd read and understood the paperwork, and that Mrs K had spoken to HB about freezing interest and charges on one of her debts in October 2012. So it was unlikely that Mrs K didn't know that interest and charges might continue.

The CMC disagreed and referred to the provisions of the OFT's Debt management (and credit repair services) guidance from March 2012 ("the Guidance") which was applicable at the time Mrs K entered into the DMP. It said that under the Guidance, HB was obliged to make consumers aware of the free debt advice sector. It also said that HB's welcome call should have referred to the possibility of interest and charges continuing.

my findings

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

I only propose to deal with the main issues raised by the CMC in its response to the adjudicator's view in my decision.

I note that HB said that the DMP was sold by another business which only kept its call recordings for six months. So, it doesn't have a recording of the phone call in which the DMP was sold. HB said that it dealt with the welcome call with Mrs K and subsequent correspondence. I also note that the CMC said that HB should have raised the option of fee free advice in its welcome call.

But, I can see that when Mrs K entered into the DMP in August 2012, the 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 Guidance). The Guidance said that this would be the case if there were priority debts and/or an immediate emergency, or if Mrs K didn't have enough disposable income to afford the fees and her monthly plan payments. But I can see that this didn't appear to be the case in Mrs K's circumstances. I can see that her debts weren't priority debts and there didn't appear to be an immediate emergency. And for all but one month from August 2012 until October 2013 Mrs K was able to pay £150 to HB until she terminated the DMP. Because of this, it appears to me that the fees and monthly plan

payments weren't unaffordable. So, in Mrs K's circumstances, I don't think that HB acted inappropriately in not referring her to fee-free services.

I also agree with the adjudicator that it was unlikely that Mrs K didn't know that interest and charges might continue. I can see that Clauses 4.4 and 4.9 in HB's terms said that HB would attempt to agree with Mrs K's creditors that interest and charges would be frozen or reduced, but that it couldn't prevent such charges being levied. I note from HB's contact notes that in its welcome call with her, Mrs K had told HB she had read the paperwork, and she had also discussed the freezing of interest and charges on one of her debts two months after entering into the DMP.

So, overall, I don't think that HB has done anything wrong in rejecting Mrs K'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 Mrs K to accept or reject my decision before 7 December 2016.

Roslyn Rawson
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