

The complaint

Ms K is unhappy that Home Retail Card Services Limited passed her account to a third-party debt collection company despite her being enrolled onto a Government sponsored 'breathing space' agreement.

What happened

Ms K encountered some difficult personal and financial circumstances which caused her to struggle to meet the monthly payments that were required on her Home Retail account. Because of this, Ms K applied for a Government backed breathing space scheme, and Ms K's representatives contacted Home Retail about this on Ms K's behalf.

Home Retail didn't apply the breathing space to Ms K's account as they should have, so Ms K contacted them about this. At that time, Home Retail took steps to rectify the situation, but not long afterwards Ms K learned that her account had been passed to a debt collection company. Ms K wasn't happy about this, so she raised a complaint.

Home Retail looked at Ms K's complaint. But they felt that they'd administered Ms K's account fairly, and so they didn't uphold the complaint.

Ms K wasn't satisfied with Home Retail's response, so she referred her complaint to this service. One of our investigators looked at this complaint, but they also didn't feel that Home Retail had acted unfairly or unreasonably towards Ms K in how they'd managed the situation, and so they also didn't uphold the complaint.

Ms K remained dissatisfied, so the matter was escalated to an ombudsman for a final decision.

What I've decided – and why

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

The breathing space scheme is a government backed scheme which allows persons in financial difficulty to request a 60-day hold on collections activities from their creditors, and the non-accrual of interest, fees, and charges on their account for that same period of time.

Home Retail contend that they never received notification from Ms K's representatives that she wanted to apply the breathing space scheme to her account. However, Ms K has been able to demonstrate that the request was sent to Home Retail. As such, I feel it's more likely than not that it was received by Home Retail, and that the breathing space wasn't applied to Ms K's account when it first should have been by Home Retail for some other reason.

In circumstances such as this, it would be expected that when Home Retail learned that Ms K had requested the breathing space, that they would have taken steps to have retrospectively applied that breathing space to Ms K's account from the date that it should have been applied, had the original request from Ms K's representatives been acted upon.

I think that Home Retail have done this, and I say this because they did reimburse to Ms K's account the interest and fees that had accrued on Ms K's account since the time the breathing space should have been first initiated. And by doing this, I'm satisfied that Home Retail put Ms K's account into the financial position it should have been in, had the initial request for breathing space made by Ms K's representatives been acted upon.

I'm aware that Ms K is unhappy with how Home Retail have reported the time during which she was benefitting from the breathing space to the credit reference agencies. But the breathing space scheme doesn't affect the requirement for the applicant to make the contractual monthly payments that are due on their accounts, but only freezes interest and charges, and suspends any potential collections activity for the 60-day period of the scheme.

In this instance, this meant that Ms K was still required to make the monthly contractual payments required by her Home Retail account. But Ms K didn't make these payments, and because of this I don't feel that Home Retail have acted unfairly towards Ms K by considering those payments as being missed and as constituting arrears on her account, or by reporting them as missed payments to the credit reference agencies.

I'm also aware that Ms K is unhappy that Home Retail passed her account to a third-party debt collection company, which she believes was done whilst the breathing space should have been effect. However, Home Retail have been able to demonstrate that Ms K's account wasn't passed to the debt collection company until after the 60-day breathing space scheme ended, and that Ms K's account was in arrears by multiple months at that time. This seems reasonable to me, and I don't feel that Home Retail acted unfairly in this regard given the arrears that had developed on Ms K's account at that time.

I realise that this won't be the outcome that Ms K was wanting here, but it follows from the above that I won't be upholding this complaint or instructing Home Retail to take any further action at this time. I hope that Mr K will understand, given all that I've explained, why I've made the final decision that I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 21 June 2022.

Paul Cooper
Ombudsman