

The complaint

Mr H complains that Bank of Ireland (UK) Plc kept harassing him with correspondence about his debt even after he had told it he had filed for bankruptcy.

What happened

In 2016 Mr H entered into a regulated fixed sum loan agreement with Bank of Ireland. In 2017 he filed for bankruptcy, and he notified the bank of this in September of that year. His other creditors stopped writing to him. Nevertheless, the bank continued to send him notices of sums in arrears about his debt, and this caused him great stress. He complained about this in 2018 and 2019, but the correspondence continued. His GP diagnosed him as unfit to work due to anxiety. Sometimes he would have panic attacks.

In 2022 Mr H complained again. The bank apologised and agreed that it should not have sent him the letters. It explained that due to human error it had failed to apply the relevant blocks to his account which would have stopped the letters being automatically sent. The bank offered to pay him £100. Mr H did not accept that offer, and so a month later the bank increased its offer to £500. And in April 2023 the bank offered him a further £250, because it had been reporting his loan account as still open, when in fact it had been closed as part settled in 2020. The bank corrected the relevant entry on Mr H's credit file.

Mr H was not satisfied with this outcome, and so he brought this complaint to our service. He described how he had tried many times to resolve the matter with the bank, but without success, and he had just been passed from pillar to post, forcing him to keep explaining his circumstances over and over again to different call handlers. This had adversely affected his mental health. He said the impact on him of the bank's poor service was worth far more than £750. However, our investigator concluded that £750 was fair compensation for what had happened.

Mr H asked for an ombudsman's decision. He emphasised the effect on his mental health, and pointed out that one of the key advantages of bankruptcy is that creditors are supposed to cease contact, and the great relief which results. Instead, the actions of the bank had caused him so much stress that he had suffered bouts of unemployment. He is still taking medication today. He added that the effect on his credit file had been severe, making it impossible to obtain credit except on unfavourable terms. And he and his new wife had spent £2,000 on lawyer's fees for executing a pre-nuptial agreement, so that she would not be affected by any actions that may be taken by debt collectors.

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.

Having done so, I think that a total of £750 is fair compensation. I will explain why.

I do not doubt that the considerable strain that Mr H has been under over an extended period of time, and its toll on his mental health and on his career and income, are certainly

worth substantially more than £750. However, I also have to take into account two other factors: the extent of the bank's culpability for those consequences, and also how much of the resulting impact was really foreseeable by the bank.

I do not think it is possible for me to safely conclude that all of Mr H's difficulties are entirely the result of the bank's correspondence. The bankruptcy itself, as well as the circumstances which led up to it, must also have played a substantial part, and most likely the lion's share. I don't think it would be reasonable for me to try and untangle these things from each other, or to decide that the bank's contribution amounted to a particular percentage, for example. I appreciate Mr H's argument that everything was supposed to get better after the bankruptcy because he was not meant to be dealing directly with his creditors anymore, and that should have made things much easier for him, and would have done but for the bank's error. But I don't think it follows that the bank must be responsible for everything that happened after 2017, because all too often, difficult or traumatic circumstances take time to recover from, and the emotional impact continues to be felt long after the original cause has ceased to exist. The bankruptcy would not necessarily have solved everything at once, even if Bank of Ireland had stopped sending the letters at the same time as Mr H's other creditors did. So I don't think it would be reasonable for me to conclude that the bank's actions were the sole cause, or even the predominant cause, of the stress Mr H has endured.

Of course, that does not get Bank of Ireland entirely off the hook. The bank knew that Mr H was bankrupt (there is a contemporaneous entry to that effect in its customer contact notes), and therefore it also knew that he was vulnerable. So it should have stopped the letters, and it should have known that the impact of sending those letters might be greater for him than for someone else. And I think that the real problem was not actually those letters themselves, but Mr H's repeated and fruitless efforts to have them stopped. I can see that he made numerous phone calls to the bank, during which he had to keep on explaining his circumstances, and yet these all appear to have fallen on deaf ears. That must have not only been infuriating, but also draining. He complained in 2018 and again in 2019, without the problem being solved until the third time he complained, in 2022. That is clearly a long time, and on any view of the matter that is very poor service. The bank's first offer of compensation fell well short of what was needed to recognise what its customer had been put through.

Nevertheless, I don't think the bank could reasonably have foreseen that these letters and phone calls would lead to Mr H being unemployed for extended periods of time. And (as I said earlier) I don't think they were the sole or main reason for that happening to him.

Taking all of these matters into account, and after reminding myself of our service's approach to determining what is fair compensation for distress and inconvenience, I think that this case falls at the top end of the £300 to £750 bracket.

Turning to the matter of Mr H's credit file, I think that the default which was recorded by the bank would have had less impact on his credit file than the bankruptcy itself. So I cannot conclude that this was the reason why it was difficult for him to obtain credit on favourable terms.

Overall, I am satisfied that £750 is fair compensation for the issues raised in this complaint.

My final decision

So my decision is that I uphold this complaint. I order Bank of Ireland (UK) Plc to pay Mr H £750 (minus any sums it has paid him already in respect of these matters).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or

reject my decision before 12 December 2023. But apart from that, this final decision brings our involvement in this case to an end.

Richard Wood
Ombudsman