

complaint

Mr A complains that HSBC Bank Plc (trading as first direct) is not responding reasonably to his financial difficulties. He wants it to refund charges applied to his account, to stop placing a charging order on his property, and to agree an affordable settlement.

background

Mr A fell into financial difficulties six years ago and has been assisted to manage his debts by a debt management organisation. His current account was in overdraft and charges totalling £515 were applied at various times until the account was frozen. The account has since been dormant. Mr A also had a personal loan with first direct. This was sold on. Mr A has received a solicitor's letter seeking to apply a charging order on his property. Mr A says that because of his personal circumstances he will never be able to repay these debts and that the bank should offer him an affordable settlement.

The adjudicator did not recommend that the complaint be upheld. While she sympathised with Mr A's situation, she did not think the bank had made a mistake. It had applied the charges correctly. It had responded reasonably to Mr A's financial difficulties. It was no longer responsible for the debt that it sold on. Mr A responded that the charges were excessive and they should be refunded. He would never be able to repay the debts and the bank should reasonably offer to settle with him.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Mr A is in an unfortunate position. However, I agree with the adjudicator that the bank has not made a mistake for the following reasons.

The bank has sold on Mr A's personal loan debt. The bank and the adjudicator have already told Mr A that he must complain to the relevant company about the charging order. So I do not make any findings on this issue.

The charges applied to Mr A's current account were for overdraft and recall fees. Mr A says that the charges were excessive. I cannot rule on whether they were too high but only on that they were applied correctly according to the account's terms and conditions. The overdraft fees were applied intermittently over three years while the recall fees were applied just before the account was frozen. I conclude that when it was aware of Mr A's financial difficulties the bank responded sympathetically and positively by freezing the account. No further charges have been applied since that time. The charges were correctly applied and I do not consider it reasonable to require the bank to refund them.

Mr A complains of hardship. The bank has offered to review Mr A's situation with him and has requested financial details from him in order to do this. I cannot see that Mr A has responded to this offer of help. I encourage him to co-operate with the bank to make it aware of his financial situation and to seek a way forward.

my final decision

My decision is that Mr A should take his complaint about the charging order to the company that has bought the debt. I do not uphold Mr A's complaint about his current account with HSBC Bank Plc (trading as first direct).

Phillip Berechree
ombudsman