

complaint

Mr C complains that Bank of Scotland plc acted unfairly when it sold his credit card debt onto a third party debt recovery agency, without first offering settlement terms to him at the same discounted figure. Especially since Mr C had already made repayment offers and the bank knew he wanted to come to an agreed settlement.

He seeks reimbursement of the financial loss he believes he's suffered as a result. And, for the benefit of all customers, Mr C wants to establish the general principle that in these circumstances, all banks should be required to offer the same discounted rate to the account holder as it agrees with a third party.

background

After Mr C told the bank in 2009 that he was in financial difficulties, he began making reduced monthly repayments. In 2011, the repayment figure was reduced further. In 2014, when settlement couldn't be agreed on terms acceptable to the bank, Bank of Scotland sold Mr C's debt on to a third party. He has since paid an agreed partial settlement of that debt to bring the matter to a close. But Mr C is unhappy that he wasn't told in advance that the outstanding balance on his account was to be sold on to a third party and he feels he ought fairly and reasonably to have been offered the chance to clear his debt on the same preferential terms that it was sold.

Our adjudicator didn't uphold the complaint. He felt that the bank had acted fairly and reasonably in accordance with the account terms and conditions and that we couldn't get involved in commercial matters it was up to the bank to decide.

Mr C disagrees, so the complaint has been referred to me.

my findings

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

I understand Mr C's strength of feeling about this matter. It seems clear to me that he was engaged for some time in sincere and genuine efforts to reach an agreed resolution with the bank after he experienced financial difficulties. I appreciate that he thinks the bank didn't reciprocate in the open and transparent way he felt he was entitled to expect.

Lenders must respond positively and sympathetically to a customer in financial difficulty. I can see that when Mr C experienced financial difficulties in 2009, Bank of Scotland agreed a payment plan with him – it accepted reduced monthly payments and froze interest and charges on Mr C's account.

It wasn't until 2014 that the bank took the decision to sell the debt on – and this only happened after Mr C wasn't able to maintain the original payment plan and monthly repayments had been reduced to a nominal amount.

So I don't feel I can fairly and reasonably say that the bank didn't respond to Mr C's circumstances in a constructive and helpful way – or that it failed to treat him positively and sympathetically when he was in financial difficulty.

I agree with our adjudicator that a decision on selling the debt on to a third party is a business decision for the bank to take. And Bank of Scotland's arrangements with third parties with whom it negotiates terms about the sale of debt are private – this confidential information is not something that the account holder is entitled to know.

I appreciate that Mr C feels this puts the account holder at a disadvantage, and he wants to challenge this on the basis that the bank has failed to meet its fiduciary obligations to him. But as we are not the regulator I cannot make the bank change its systems or process.

We work to ensure customers do not suffer any financial loss as result of a bank's errors and we expect banks to act fairly and reasonably. I agree with our adjudicator that, looked at overall, Bank of Scotland hasn't acted incorrectly towards him, and I can't say it hasn't been reasonable in its dealings with Mr C.

I find that the £75 already paid by Bank of Scotland to Mr C for the upset and frustration it caused when it was slow to respond to his complaint letters is fair and reasonable. So, in these circumstances, I can't fairly require the bank to take any further action.

my final decision

For these reasons, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 3 March 2015.

Susan Webb
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