

complaint

Mr A and Miss B complain about bank charges applied to their joint account between 2004 and 2008. They say that Barclays Bank Plc was wrong to apply the charges and it failed to treat them fairly when they were suffering financial difficulties. They would like the charges to be refunded with interest.

background

Mr A and Miss B's complaint relates to a period of financial difficulties which resulted them applying for debt relief orders in 2009. When they complained to the bank in 2012, it wrote to them asking them to complete a budget planner so it could assess their difficulties. But unfortunately the bank sent those requests to the wrong address and so they were not received.

After the complaint came to us, the bank accepted this was a customer service failing and offered £50 compensation. However, the bank rejected the financial hardship claim on the basis that it had not been made aware, at the time, of Mr A and Miss B's financial difficulties and so could not have done more to help them then. It also said it had responded appropriately when notified in 2012 by sending out the budget planner and assessing the response.

The adjudicator did not recommend that the complaint be upheld. She said, in summary, that the bank charges could not be challenged on the basis they were unfair because they were too high (following the Supreme Court ruling in November 2009). She also said the bank was not automatically required to refund charges when a customer raised financial hardship. She noted the bank had not pursued the account balance debt of £894.42 after it was notified of the debt relief orders and that she considered this was sufficient for it to meet its obligations to treat customers in financial difficulties 'positively and sympathetically'. She was also satisfied that Barclays' offer of £50 for the poor customer service was fair and reasonable in the circumstances.

Miss B responded to say, in summary, that the debt relief orders had extinguished the debt owed to the bank so it was wrong to say that the bank had taken positive action by not pursuing the debt – since it was no longer enforceable.

my findings

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

Like the adjudicator, I am satisfied that the bank charges applied between 2004 and 2008 were applied correctly and cannot be challenged on the basis they were unfair because they were too high. Mr A and Miss B say they were suffering financial difficulties during this time. Whilst I accept that, I cannot see any evidence that they approach the bank to ask for assistance with those financial difficulties at the time. So I would not have expected the bank to have done anything to assist them at that stage.

When Mr A and Miss B approached the bank in 2012 to complain about the bank charges, they did notify the bank of their financial difficulties and it asked them to complete a budget planner so it could assess their financial position. Once it had received that information, the

bank assessed their claim and rejected it. So I need to consider whether the bank acted correctly in doing so.

The bank's obligation to treat a customer's financial difficulties 'positively and sympathetically' only relates to a debt owed to the bank, and not to the customer's financial situation generally or debts owed to other parties. Here, Miss B has rightly said that the debt relief orders extinguished the debt she and Mr A owed to the bank. That being the case, there is no longer any debt owing to Barclays and therefore no obligation on the bank to assist Mr A and Miss B with any financial difficulties they may unfortunately be continuing to experience.

Whilst I know it will come as a disappointment to Mr A and Miss B, I therefore find no basis on which to uphold their complaint about the bank's failure to assist them with their financial difficulties or to refund bank charges.

In relation to the bank's customer service failure, I consider this warrants some compensation for the distress and inconvenience caused. I am aware that Barclays has already made an offer to pay £50 for this, which is in line with what I would have recommended.

my final decision

My final decision is that I uphold this complaint in part. In full and final settlement of it I order Barclays Bank PLC to pay to Mr A and Miss B £50.

Michelle Peters
ombudsman