

complaint

Mrs K complains that Bank of Scotland plc, trading as Halifax, did not respond positively and sympathetically when she told it about her financial difficulties, and that it has passed her debt to external collections agencies. These actions have caused her distress and inconvenience, and she wants the bank to either take her to court or stop referring the account to debt collectors.

background

Mrs K had a debt of about £13,000 with the bank. In 2007 she wrote to the bank explaining that she was experiencing financial difficulties, and that she and her husband would be selling their home so that they could meet – at least partly – their financial commitments. She offered to pay 50% of her debt in full and final settlement.

The bank declined this offer but agreed a nominal repayment plan and suspended interest and charges. Some time later, it began to apply interest and charges again. In mid 2009, the bank defaulted Mrs K's account and transferred it to various collections agents. The account is currently on hold whilst this complaint is investigated.

The adjudicator recommended that this complaint should be partly upheld. She concluded that the bank had not handled Mrs K's initial contacts well and recommended that the bank's payment of £75 compensation should be increased to £150. She also concluded that the bank should not have started charging interest and fees after it first suspended these, and the bank has agreed to refund £625.92 against Mrs K's debt.

Mrs K has responded to say, in summary, that the bank has pursued her for six years for a debt it knows she cannot pay, and has asked for an ombudsman's review.

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 can see that Mrs K told the bank about her financial difficulties in 2007 and that she offered to pay, in full and final settlement of her debt, 50% of the amount she owed. Mrs K made this offer jointly with her husband, who at the time owed the bank a similar amount.

When a bank knows that a customer is facing financial difficulties, it is expected to respond positively and sympathetically. Part of that is how well and quickly the bank responds – and in this complaint I can see that it took about five months for the bank to agree a repayment plan. That is a long time and I agree with the adjudicator that £150 is more appropriate compensation for this delay than the £75 paid. Mrs K says that the bank did not respond directly to her – and I can see that it sometimes did not, but I am satisfied that, as she entered into the repayment plan, that she understood the bank's position at the time.

A bank is not obliged to accept an offer made by a customer, even if the customer believes it is the best solution for both parties. The bank is entitled to make a commercial decision, and I am satisfied that it did this when it rejected the offer Mrs K made. The payment arrangement and suspended interest and fees may not have been what Mrs K wanted, but that was the bank's decision to make, and I do not find it made an error here.

When Mrs K complained in 2009 that the bank had started charging interest and fees again, the bank offered to refund these and suspended them going forwards. That is a reasonable response. The bank has confirmed that this refund is still available and would be used to reduce the balance outstanding.

Mrs K says that the bank should not have been pursuing her for the debt when it had all the available information about her financial position. Whilst I have sympathy with Mrs K's point, the bank is entitled to try to recover a debt owed to it, and that includes using external agencies.

The bank says that collections activity is on hold until this complaint is concluded. As Mrs K says her financial position remains unchanged, I would expect the bank to respond to this positively and sympathetically going forward. This service cannot interfere with the commercial decision a bank makes, but I would expect it to agree a way forward with Mrs K within a reasonable timescale and consider six weeks to be appropriate.

my final decision

My decision is that I partly uphold this complaint. In full and final settlement I order Bank of Scotland plc to pay Mrs K – by a method of her choosing - £75 compensation for the distress and inconvenience caused. I leave it with Mrs K to decide whether to accept the refund of fees and interest the bank has offered.

Susan Peters
ombudsman