

complaint

Mr R says HSBC Bank Plc should issue a notice of satisfaction against the CCJ (county court judgment) on his current account.

background

Mr R entered into an IVA (individual voluntary arrangement) in May 2012. There was already a CCJ on his HSBC current and loan accounts. The bank received a dividend payment for the loan, wrote-off the small outstanding balance and issued a letter of satisfaction. No payment was received for the current account debt - the CCJ falls away at the beginning of April.

Our adjudicator recommended the complaint should be upheld. She said the bank should issue a letter of satisfaction for the current account as it was the bank's error that led to its exclusion from the IVA. The bank failed to submit a proof of debt form for the current account, and that was why no dividend was paid.

She was satisfied the insolvency practitioner had tried several times to obtain one, despite the bank's argument neither its solicitors nor the Insolvency Exchange received any correspondence about it. Overall, she concluded the fairest outcome was for the bank to accept the debt as satisfied.

The bank disagreed. It said it seemed it was never asked to provide a proof of debt for the current account. And it couldn't issue a letter of satisfaction unless the outstanding debt was repaid in full.

my findings

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've reached the same conclusion as the adjudicator and for the same reasons.

If HSBC had submitted a proof of debt form for the current account it would've received payment, albeit at the dividend level. Given the commercial decision it made on the loan (to waive the small remaining debt and issue a letter of satisfaction) I can find no reason to conclude it wouldn't have done the same for the current account.

I note its comment that the dividend percentage would've been lower had the current account debt been included. This doesn't change my conclusion – and given the numbers involved I'm not persuaded it would've changed its decision to categorise the loan as repaid in full.

I'm not satisfied by the bank's argument that there was no correspondence about the form. As the adjudicator pointed out, there's even evidence a form was completed covering the current account in September 2011 – but it was incorrect.

So, on the basis I think it was the bank's error that excluded the debt from the IVA, I agree the bank should issue a letter of satisfaction. It argues this would be misrepresentation, but I think it would be a more accurate representation of Mr R's financial history, and what should've happened given he entered into an IVA.

I know this outcome may be somewhat redundant given today's date and the date the CCJ falls away but Mr R has the right for this review and a decision nonetheless.

my final decision

My final decision is that I uphold this complaint. HSBC Bank Plc should issue a letter of satisfaction for Mr R's current account.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 8 April 2016.

Rebecca Connelley
ombudsman