

complaint

Mr C, represented by Mrs C, complains that MBNA Limited ("MBNA") sold his credit card debt to an external debt collection agency after it told him that it was prepared to accept a reduced settlement payment.

background

Mr C was unable to meet the payments on two credit card accounts he held with MBNA. MBNA agreed a settlement figure on one of the accounts, which Mr C paid. Soon afterwards, he received a letter about the other account in which MBNA set out its intention to default the debt and sell it to an external debt collection agency. Mrs C rang MBNA to discuss the matter, and although MBNA quoted a sum it would be prepared to accept in settlement, it said that this would be subject to it not already having sold the debt by the time Mr C was in a position to pay that amount. Mr and Mrs C rang a week later, but by then the debt had been sold. Mr C complains that MBNA should not have proceeded with the sale so soon after specifying a settlement figure. He is also unhappy that MBNA sold his debt for a lower amount than the settlement figure quoted to him, which he considers to be unfair.

The adjudicator did not recommend that the complaint should be upheld. He said that having listened to Mrs C's phone call, he was satisfied that MBNA had made it clear that the debt could be sold at any time, and that it would not guarantee to refrain from doing so whilst Mr C attempted to raise the settlement figure. He commented that MBNA was entitled to sell Mr C's debt having given him notice that it might do so, and that the figure it was prepared to accept from the agency purchasing the debt was a separate, commercial decision.

Mr C disagreed with the adjudicator's findings, saying, in summary, that he believed that MBNA should have given him more time to raise the settlement figure as he had only recently settled his other credit card debt with the bank.

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 should say first that financial organisations are not required to agree settlement figures with customers who owe money, even when customers are in financial difficulty, although they are required to treat them positively and sympathetically. In this case, MBNA had agreed a settlement figure on Mr C's first credit card, which he paid. It then sent him a default letter about his other credit card account, and I have listened to Mrs C's phone call following receipt of that letter. I am in no doubt that MBNA made it absolutely clear that the debt could be sold at any time, and that although it said it was prepared to accept the same level of settlement figure on this second debt as on the first, it could give no guarantee that it would still be in possession of the debt when Mr C was in a position to make that payment.

In the event, MBNA sold the debt four days later, which I am satisfied it was entitled to do. I am also satisfied that Mr C was not misled about that possibility. Mr C has said that MBNA should have waited longer before making the sale, and although I understand why that might have been helpful to him, MBNA had not suggested it might do so. I also find that as MBNA had suspended interest and charges on Mr C's account for some six months prior to the default, it had responded both positively and sympathetically to his financial difficulties.

Following the sale of his debt, Mr C subsequently discovered that MBNA had sold it for less than the settlement figure it offered him, which again he considers to be unfair. But MBNA's dealings with the third party agency are a completely separate matter from its relationship with him, and MBNA was quite at liberty to make a different decision about the sale value of Mr C's debt in the overall context of its relationship with that agency. In agreeing an appropriate sale figure no doubt both MBNA and the debt collection agency will have taken account of, amongst other things, the cost of collecting that debt over some future indeterminate period, which may well then have been reflected in the sale price.

my final decision

My decision is that I do not uphold this complaint.

June Brown
ombudsman