

complaint

Mr H complains that, after telling the bank about his financial difficulties in 2007, Bank of Scotland plc has continued to pursue him for a debt he cannot repay in full and has now sold his account to an external organisation. He wants the bank to pursue him through the courts so he can present his case.

background

Mr H had a debt of about £13,000 with the bank. In 2007 he wrote to the bank explaining that he was experiencing financial difficulties, and that he and his wife would be selling their home so that they could meet – at least partly – their financial commitments. Mr H offered to settle his debt by paying 50% of the amount he owed.

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 Mr H's account and agreed another repayment plan. When payments stopped after about a year, it eventually sold the account to an external agency (in mid 2012).

The adjudicator recommended that this complaint should be partly upheld. She concluded that the bank had not handled Mr H's initial contacts well and recommended that the bank's payment of £50 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 £666.42 against Mr H's debt.

Mr H has responded to say, in summary, that the bank has pursued him for years for a debt it knows he 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 Mr H told the bank about his financial difficulties in 2007 and that he offered to pay, in full and final settlement of the debt, 50% of the amount owed. Mr H made this offer jointly with his wife, 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 some months for the bank to agree a repayment plan. That is a long time in such circumstances. Mr H also says that the bank did not respond properly and I agree with that. However, even if it had, the outcome may not have been different. But I agree with the adjudicator that £150 is more appropriate compensation for the poor service provided than the £50 paid.

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 Mr H made. The payment arrangement and suspended interest and fees may not have been what Mr H wanted, but that was the bank's decision to make, and I do not find it appropriate to intervene.

The bank started charging interest and fees again after about 15 months, which is not appropriate as it had the effect of increasing Mr H's debt when his position had not improved. The bank has agreed to refund these - £666.42. I find that to be a fair and reasonable response.

Mr H says that the bank should not have been pursuing him for the debt when it had all the available information about his financial position. Whilst I have sympathy with Mr H's point, the bank is entitled to try to recover a debt owed to it. It is also allowed, under the terms and conditions of the account and after default, to use external agencies and sell the account.

The bank says that as the account has been sold it cannot assist Mr H further. I would urge Mr H to contact the new owner of his debt, which is obliged to respond positively and sympathetically to his financial difficulties.

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 Mr H – by a method of his choosing - £100 compensation for the distress and inconvenience caused. It should also refund £666.42 of interest and charges to Mr H's account and notify the new owner of the account that it has done this.

Susan Peters
ombudsman