

complaint

Mr E complains that Bank of Scotland plc (trading as Capital Bank) ("Capital Bank"), passed on a debt to a third party for collection that he did not owe. This has affected his credit rating and he wants compensation.

background

Mr E has been pursued for 5 years for a debt he doesn't owe. Capital Bank sold the disputed debt onto a third party who has been trying to get the money from him. More than one third party has tried to recover the debt. This has caused him distress and inconvenience.

Capital Bank accepts he doesn't owe the debt and has offered £250 for distress and inconvenience.

The adjudicator upheld the complaint; he felt £500 was a more appropriate award. Further, Capital Bank should ensure all adverse information is removed from Mr E's credit file, by contacting the third party debt collectors Capital Bank has not responded.

Mr E wants much more compensation; initially he asked for just over £60,000 and recently put his costs at £50,750. He says he had to pay more for a house due to problems obtaining a mortgage, has incurred legal costs and damage to his reputation.

my findings

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

Capital Bank accepts Mr E does not owe the money. In the circumstances, the debt should not have been passed onto a third party. The third party has been chasing Mr E for the debt and recorded adverse information on his credit file. As it has been going on for so long other third parties have been chasing him for the debt. The only issue to decide is the level of compensation for distress and inconvenience and to ensure adverse information is removed from Mr E's credit file.

The adjudicator recommended £500, Mr E wants £50,750. This is made up of £35,000 damage to his reputation, £15,000 higher costs for a house and £750 legal fees.

Our role is not to punish banks but to award what is fair and reasonable. An award can be made for distress and inconvenience, rather than for damage to reputation. However, this problem has been going on for 5 years and £500 is in my view not quite enough, as this has been going on for some time, £700 seems a fair and reasonable award for distress and inconvenience.

I realise Mr E is looking for a much higher amount. I understand Mr E had difficulties buying a house and paid £15,000 extra to get it, however, I have seen no evidence that this is directly due to the adverse findings on his credit file. It is not fair and reasonable to require Capital Bank to pay for this or £750 legal fees.

It is also fair and reasonable for Capital Bank to contact the third parties and ask for any adverse information to be removed from Mr E's credit file.

my final decision

My final decision is that I direct Bank of Scotland plc (trading as Capital Bank) to;

- pay Mr E £700 for distress and inconvenience.
- contact the third parties who have been pursuing Mr E for the debt, within 28 days of Mr E accepting the final decision and request that any adverse information be removed from Mr E's credit file.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr E to accept or reject my decision before 27 February 2015.

Clare Hockney
ombudsman