

## **complaint**

Mr J complains that a debt HSBC Bank Plc is pursuing him for is unenforceable and its solicitors have illegally placed a payment diversion on payments made.

## **background**

The details of this long-running case are well-known to Mr J so I do not repeat them here. Nor do I detail the extensive dealings he has had with the bank and its solicitors before bringing his complaint to us. In summary:

- Mr J had credit card accounts with HSBC (provided by the bank under various business names);
- He has experienced financial problems dating back to 2005;
- Mr J says the debt is unenforceable;
- A charging order (as amended) has been granted by a court to HSBC's solicitors but the sale of Mr J's family home cannot take place as he says he intends to lodge an appeal with the European Court of Human Rights (ECHR); and
- Mr J has made payments to reduce the amount he owes but says the bank's solicitors have illegally diverted them.

Our adjudicator looked into Mr J's complaint. He said the enforceability of the debt was a matter for the court and not one this service should look at. The adjudicator noted the allocation of payments was simply an error on the part of HSBC's solicitors. An offer to rectify the situation and apply the payments to the accounts correctly has been made to Mr J – but he has rejected it.

As Mr J did not accept the adjudicator's view or the offer to correct the position, the matter has been referred to an ombudsman to make a final decision.

## **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 am in no doubt regarding how strongly Mr J feels about these matters. That is evident from the large amount of correspondence he has had with HSBC (in its various forms), the bank's solicitors, other agencies and indeed this service. And this is no surprise, given his family home may be at stake.

But I am afraid I have to tell Mr J that the adjudicator has got his assessment of this case quite right. There is actually very little I can add to what the adjudicator has already told Mr J. I consider he set out the position very clearly.

Mr J believes the debt is unenforceable. I disagree. As it stands, the legal position is clear. A charging order has been granted against Mr J. I realise Mr J questions the validity of this – he truly believes he should not have to pay HSBC the money owed on the credit card accounts. This is evident from his wish to pursue his claim to a higher authority (the ECHR) and the extensive references he has provided on legal points he sees as relevant to his case. But it is not for this service to override the legitimate decisions of the courts.

The adjudicator has set out an entirely fair and reasonable solution to Mr J's other issue – that of his payments not being allocated to the correct accounts. Like the adjudicator, I have seen nothing that suggests the actions of either HSBC or its solicitors in how the payments have been allocated have been either deliberate or illegal. They simply made a mistake. HSBC has agreed to allocate the payments correctly, so that Mr J is put back in the position he should have been. To be frank, I fail to see what Mr J hopes to achieve by rejecting this.

Having said that, what comes through clearly from Mr J's dealings with so many people is that he is seeking, what I describe as, justice. That may be so – and as I said earlier there is a lot at stake for him – but, in Mr J's sense, it is not something this service can help him with. My decision brings to an end what this service can do for Mr J.

I know Mr J will be disappointed with this but all I can do is direct HSBC to follow through on its offer.

### **my final decision**

For the reasons I have given, my final decision is that I order HSBC Bank Plc to directly manage (rather than through its solicitors) all debt collection activity in respect of Mr J's debts on his credit card accounts and to ensure all payments he has made are applied to the correct account(s).

Andrew Davies  
**ombudsman**