

complaint

Mrs N complains HSBC UK Bank Plc trading as first direct ("first direct") are incorrectly chasing her for repayment of monies and have placed a default marker on her credit report. Mrs N is assisted in bringing her complaint by her husband Mr N.

background

Mrs N came to us as she was unhappy with first direct's response when she complained about them chasing a debt for £500. She thought this had been resolved and confirmed in a letter from first direct dated 19 July 2018. She told us the registration of a default on her credit file by first direct for this disputed debt had resulted in her mortgage application with another lender being declined.

Our adjudicator found he couldn't say first direct had failed to notify Mrs N that she still needed to repay the outstanding debt on her account and that not paying the outstanding debt it would result in her credit file being affected. He thought Mrs N had refused to pay back the outstanding debt despite the number of warnings she'd had to make her aware that she needed to pay it back. So he didn't uphold the complaint or ask first direct to remove the default marker from Mrs N's credit file.

Mrs N asked for an ombudsman to make a final decision. She said she hadn't received the final demand letter of 15 June 2018 from first direct and asked whether first direct were able to prove they sent it. She told us she hadn't appreciated that in order to close her account with a zero balance first direct had to transfer the £500 owing from an internal account.

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 come to the view that this isn't a complaint which I can fairly and reasonably uphold.

There's no dispute first direct made a mistake on 4 January 2018 when - after Mrs N's account should've been closed - they allowed a standing order of £500 to be paid causing the account to be overdrawn. But the mistaken payment was to an account held by Mrs N with another bank. There's no dispute the £500 payment was received in that account. And whilst I know that's only happened due to the bank's mistake it doesn't justify writing off the amount paid in error. Mrs N's had the benefit of the £500 which shouldn't have been paid to her and first direct are entitled to ask for it back.

In the initial complaint Mrs N brought to this service a view was issued on 8 June 2018. There the investigator found first direct had already responded fairly to her complaint. First direct's proposal was to remove any charges on the account caused by the mistaken payment and to ask for £400 of the sum to be repaid with Mrs N retaining £100 as compensation for the inconvenience she'd suffered. Mrs N rejected this saying the view was wrong, and told us she considered the matter to be resolved and asked for the complaint to be withdrawn. I know Mrs N received a letter sometime later dated 19 July 2018 stating the account has a zero balance. But I'm satisfied letters have been sent before and after that stating the money is owed.

Mrs N was also put on notice by this service that the money was owed and of the potential impact that could have on her credit file. The view on 8 June 2018 stated *"It may be that*

First Direct could take recovery action so Mrs N should arrange to pay back ... £400 as soon as possible". There was an exchange of emails the same day dealing with Mrs N's request to withdraw her complaint. During this the investigator told Mrs N *"I'm not sure what approach first direct will take, but it could potentially result in your credit file being affected, and even a legal matter raised"* and went on to say *"I must make you aware that it's very likely you will receive a letter from HSBC soon chasing the outstanding money, based on what they've told me"*. The full £500 remains unpaid so I can't say first direct have done anything wrong in pursuing payment or in registering the default on Mrs N's credit file as that's a true reflection of the account and her dealings with them.

Given how strongly Mrs N feels about what happened she may want to take the matter further through other routes. But my decision brings to an end what we – in trying to resolve her dispute with first direct informally – can do for her. I'm sorry if this disappoints Mrs N.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 5 March 2019.

Annabel O'Sullivan
ombudsman