

## **complaint**

Mr D says HFC Bank Limited unfairly applied charges to his credit card account with it. He is concerned about its response to him during a period of illness and financial difficulty. In particular, he complains about a collection charge it added to the debt.

## **background**

Mr D became seriously ill in 2006. His business suffered as a result and he got into financial difficulty. When Mr D explained his position and that he hoped to sell his business the bank suspended charges between May and August 2006. But Mr D's financial situation didn't improve. The bank transferred the debt of around £15,000 to its collections department and then to a firm of solicitors. The solicitors wrote to Mr D demanding payment and added a collection charge, of just over £2,500, to the borrowing. They took court action to recover the debt. In 2008 HFC Bank Limited sold the debt to a third party.

In 2012 Mr D wrote to the bank to request it refund all charges, based on guidance from the Office of Fair Trading and the bank's response to his financial difficulty. The bank declined to make the requested refund, but offered a £12 refund of charges – being a charge it had applied in the period May to August 2006.

Our first adjudicator did not recommend the complaint should be upheld. She considered the bank had responded sympathetically and positively when Mr D explained he had a serious illness. It didn't apply interest and charges for a period of three months (except the £12 fee, which it had offered to refund). She also said the bank had not passed the collection charge on to the third party when the debt was sold. Mr D did not accept the adjudicator's view. He said the bank had inflated the debt by the collection charge to give it greater value when selling the debt on. After an initial review the second adjudicator got some more information from the bank, which he has shared with Mr D who has given us his further comments.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

### *financial difficulty*

Like the adjudicator I consider the bank responded sympathetically and positively when Mr D explained his situation to it in 2006. It froze interest and charges, and has since offered to refund one fee of £12, which I consider reasonable. As Mr D's situation didn't improve I find it was entitled to take further action to recover the debt.

### *the collection charge*

I appreciate Mr D's concern about the collection charge. He is correct when he says this amount was included in the county court summons its solicitors issued on its behalf. And so I can understand Mr D is worried that HFC obtained judgment against him in default (that is without Mr D being present) in 2006, to include this collection charge. HFC says Mr D then

reached an administrative settlement with HFC's solicitors for an amount which didn't include the collection charge. But Mr D disputes this.

I have looked at HFC's solicitors' statement of the debt. I am satisfied this showed the 'default balance' of £15,000 (which is slightly less than the spending and interest on the account in the period before it was passed for collection). This statement also shows that court fees have been added. But it doesn't show the collection charge – this is shown as zero. Mr D then made a number of £5 payments which reduced the balance.

I am satisfied, from the evidence, that HFC didn't include the original collection charge in the debt that it sold on to a third party. Mr D hasn't been asked to pay the charge, so I don't consider its original addition to the balance has resulted in any actual financial loss to him.

I also conclude, on balance, that Mr D did make a settlement with the solicitors, following the court action. I don't consider I can properly now interfere with that. It follows that I cannot fairly now require the bank to make any refund to Mr D for any charges applied before the court action.

HFC offered to refund one £12 default charge applied in July 2006 (as it had put charges on hold). I conclude that is fair and reasonable. I leave it to Mr D to decide if he would like to accept this offer.

### **my final decision**

I appreciate Mr D's strength of feeling in this matter. But for the reasons I have explained my decision is that I do not uphold this complaint.

Amanda Maycock  
**ombudsman**