

## NW response to Complaint Commissioner's letter – 31 December 2019

“You have provided the FCA with a dataset of approximately 119,000 records and you estimate that the unreasonable debt collection charges (DCC) may amount to £200m which should be repaid to consumers.”

*My estimate includes interest payable on any redress, and is based on the fact that only 20% of cases went to court. So not derived solely from the 119k cases I provided. The figures agreed already by the FCA (25k) account for £30m in redress including interest.*

“1. The MoJ Records contain substantially more detail than the dataset you provided.

*Yes of course, my dataset was taken from Registry Trust data – data which is in the public domain.*

2. The FCA's analysis included cross-referencing the full MoJ Records with your dataset. This process has established two important facts. First, the MoJ Records include a population of cases that were not included in your data. Secondly, a number of cases were conclusively proven not to have related to HFC or JLFS credit agreements. For that reason, the FCA is satisfied that your dataset, while a useful starting point, is not an accurate or comprehensive record of cases where redress may be due to customers.”

*I have always said this, as made clear in my written explanation of my method of analysis (<https://nicholaswilson.com/ccj/>). My dataset is not comprehensive and not all claims relate to HFC/JLFS:*

**From the data I have (2004-8), which is almost certainly not complete (only half a year for 2008) I have extracted records of the claims containing the above codes. There are totals in money for each code and a global total.**

**The global total of £158,505,155 represents the total from the database reduced by 75% because I know that Restons had other clients in the period, but Weightmans didn't. I have also made an estimated reduction from the total of £37m because court fees are added on the claims. I then calculated the value of the illegal charges added and deducted that from the total to arrive at £31,701,031 illegal charges from the database.**

“3. HSBC has contacted potentially impacted customers, consisting of:

a. customers within the January 2017 redress exercise;

b. customers where HSBC's subsequent analysis evidences that the customer paid the DCC (including those whose cases were not addressed through a court process); and

*This is where figures are required – I have already made clear that Weightmans confirmed in Chambers directory that they only issued proceedings in 20% of cases. Many claims led to Legal Charges placed on customers' property, or an instalment agreement. The public is entitled to know the extent of this. I have stated on many occasions that the solicitors issuing proceedings was a last resort, because they completely bankrolled the whole exercise, including payment of all court fees, enquiry agents' fee etc. So they would avoid issuing proceedings whenever possible.*

c. HSBC is contacting any customers who have been newly identified as potentially impacted.”

*Who is monitoring this, and how is it being verified? Are HSBC given free rein to adjudicate?*

“The FCA has asked me to emphasise that customers will be compensated where the records indicate they paid unreasonable DCC. Where the records show that customers paid their outstanding debt but do not determine whether DCC were applied and paid, customers will be written to and invited to share their recollections. Customers will be compensated where their recollections indicate they have paid unreasonable DCC.”

*Every account that was passed to Weightmans or Reston had the DCC applied, automatically before the first letter before action was sent. It was not discretionary. HSBC have always denied having records. This is not possible. Even if they destroyed records in accordance with DPA, they will know precisely how much they were “billed” by Restons and Weightmans, which will show the extent of the detriment. (The bills were of course, not paid - the invoices were pro forma, because the debtor paid the legal fees)*

“Finally, and importantly, there may yet be more customers identified who are or potentially are owed redress. The FCA has reiterated that, as Andrew Bailey has said, there is no fixed limit on any compensation due and the redress process will be governed solely by the evidence.”

*The SRA are still looking into this, as the correspondence shows. If they fulfil their duties there will be many more customers identified. And this is why I am sharing this correspondence will all relevant parties - I would hope there would be a concerted effort to pay full redress to all affected consumers. It is not my job to provide evidence – the fraud has been acknowledged, it is the job of the regulators to investigate the extent of the detriment.*