

Complaint

Mr O has complained about the overdraft fees and interest HSBC UK Bank Plc (“HSBC”) applied to his current account. He’s said unplanned overdraft charges were applied to his account, which caused him difficulty.

Background

Mr O’s complaint was looked at by one of our investigators. She didn’t think that HSBC had done anything wrong as there wasn’t anything to suggest as HSBC had refunded some of the fees when he got in touch and there wasn’t anything to suggest financial difficulty at other times. So she didn’t recommend the complaint be upheld. Mr O disagreed with the investigator and asked for an ombudsman’s decision.

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 carefully considered everything provided, I’ve decided not to uphold Mr O’s complaint. I’ll explain why I’ve done so in a little more detail.

Before I go any further, I want to be clear in saying that I haven’t considered whether the various amounts HSBC charged over the years were fair and reasonable, or proportionate in comparison to the costs of the service provided. Ultimately how much a bank charges for services is a commercial decision. And it isn’t something for me to get involved with.

That said, while I’m not looking at HSBC’ charging structure per se, it won’t have acted fairly and reasonably towards Mr O if it applied these interest, fees and charges to Mr O’s account in circumstances where it was aware, or it ought fairly and reasonably to have been aware Mr O was experiencing financial difficulty. So I’ve considered whether there were instances where HSBC didn’t treat Mr O fairly and reasonably.

In other words, I’ve considered whether there were periods where HSBC continued charging Mr O even though it knew he was in financial difficulty or it ought to have realised this was the case. I think it’s important for me to start by saying that HSBC has refunded a significant proportion of the interest, fees and charges it added to Mr O’s account over the years. And I understand it’s frozen further charges too. So it seems to me that HSBC did treat Mr O fairly when it was notified of his financial difficulty and gave him breathing space.

I’ve also considered whether HSBC should refund any of the other interest, fees and charges that it added to Mr O’s overdraft.

It’s fair to say that Mr O did incur unarranged overdraft fees on occasion. But the unarranged overdraft charges on Mr O’s account were incurred because of card transactions Mr O made. There were also regular credits going into Mr O’s account and lengthy periods when his account wasn’t anywhere near going overdrawn. Equally, while I’m not seeking to make retrospective value judgements over Mr O expenditure, nonetheless there are significant

amounts of non-committed, non-contractual and discretionary transactions account going from the account.

I accept neither of these things in themselves (or taken together) mean that Mr O wasn't experiencing financial difficulty. But there isn't anything in these transactions in themselves which ought to have alerted HSBC to potential financial difficulty. So, in these circumstances and in the absence of being told anything by Mr O, I don't think that it was unreasonable for HSBC to proceed with the interest, fees and charges it didn't refund. As far as I can see, it wasn't the charges themselves which was causing Mr O to go overdrawn and therefore, I don't think HSBC unfairly charged Mr O in circumstances where it ought to have realised that he may have been experiencing financial difficulty.

As this is the case, I don't think that it needs to refund any of the other interest, fees and charges and I'm not upholding Mr O's complaint. I appreciate that this will be very disappointing for Mr O. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 6 January 2022.

Jeshen Narayanan
Ombudsman