

The complaint

Mrs A is unhappy with HSBC UK Bank Plc regarding a debt she is being asked to pay back, despite HSBC being previously unable to evidence where the debt originated.

What happened

Mrs A had a debt with HSBC from a current account that had been defaulted. The account was defaulted in 2009 and HSBC has provided this service with evidence that the balance was £1,346.75. HSBC says Mrs A was paying £10 a month by direct debit to pay off the debt. In August 2019, Mrs A asked HSBC where the direct debit was going. Despite what it has now said it told her then it didn't know. Mrs A therefore made a claim under the direct debit guarantee scheme and the money she had paid was returned to her. Following this HSBC worked out where it thought the money had been going and pursued her for the debt. Mrs A is unhappy with this.

The investigator looking at this complaint had previously considered a related complaint from Mrs A. The investigator didn't recommend the complaint be upheld. He said he was satisfied after looking at all the evidence that the £10 payments Mrs A was making to a HSBC account over the years were to pay off an account, she had with them, which closed with an overdrawn balance in April 2009. This meant that when Mrs A completed her direct debit guarantee claim in August 2019, this returned all the money to her which she had previously paid off the debt. So, in the investigator's view it followed, that this money was reasonably owed to HSBC. Given the confusion caused by HSBC being unable to identify where the payments were going, he thought it was reasonable that HSBC allow some form of repayment plan suitable to Mrs A to recover its funds. He also wouldn't expect any repayments or outstanding balance to affect Mrs A's credit file negatively, as this debt was in relation to an account that defaulted in 2009.

Mrs A didn't agree. She said HSBC has failed to provide evidence to her of how much the debt was in 2009. She is not sure how it was concluded that the amount she received back from her guarantee claim is now the amount she owes HSBC. She still does not know who she was paying £10 per month as HSBC advised her in August 2019 that it did not know where the money was going and hence, she made a guarantee claim. She said HSBC had threatened her over the phone (which she assumed had been recorded) and had been very rude when she had asked for this information causing her to become distressed particularly as she is worried this might affect her mortgage application. HSBC had referred the debt to a collection agency without providing her with the information she requested.

When I first looked at this case, I asked the investigator to send Mrs A the evidence HSBC provided to the investigator which satisfied him that the debt existed and that the £10 per month was going to pay it off. Mrs A didn't make any further comments about the debt following receipt of this information.

Unfortunately, HSBC was unable to provide this service with a copy of a recording of the call in question. A second investigator then issued a view saying that we didn't have enough evidence to suggest HSBC had been rude and threatening.

Mrs A felt that HSBC tells her one thing and this service another.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've looked at the evidence provided by HSBC and am satisfied that the £10 per month payments were going to pay off Mrs A's debt from her HSBC account which defaulted in 2009. I am also satisfied that HSBC returned the money under the direct debit guarantee in error.

I understand Mrs A's distress here and am sympathetic to her. It must have been very upsetting to discover, after receiving the money under the guarantee, that HSBC wanted it back. But the money isn't hers it's the bank's money. I think that it is reasonable that Mrs A should therefore pay this money back to HSBC. HSBC has said that it will be seeking to agree a repayment plan with Mrs A. And Mrs A says that if I find that she owes the money she would like to repay it by instalments. I think this is fair. HSBC has also confirmed that it won't report anything to credit reference agencies about the debt which I also think is fair. For completeness it has said that it sometimes has to issue county court judgments if a debt is unpaid. Hopefully HSBC and Mrs A can agree a plan so that Mrs A can pay HSBC its money back and this won't be necessary. But as I think HSBC is entitled to get its money back I don't think it is wrong for HSBC to retain this option.

Finally, although I appreciate Mrs A has been upset, I don't think HSBC threatened her. I think all HSBC has done is seek to recover money it was entitled to recover. This is an unusual set of circumstances and I think trust has been eroded on both sides. I hope that they can now both work together to agree a plan for the debt to be repaid.

So, in conclusion, whilst both sides agree HSBC made a mistake, I don't uphold this complaint as I think HSBC's response has been reasonable, so I won't be ordering it to do anything more than it has offered to do.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 15 February 2021.

Nicola Wood
Ombudsman