

The complaint

Mr and Mrs F are unhappy at the interest and charges HSBC Bank Plc ("HSBC") added to their account and overdraft over the years.

What happened

Mr and Mrs F complained to HSBC that when facing financial difficulties' it levied excessive charges on their account. HSBC says all charges were applied correctly in line with the terms and conditions of the account and that it had refunded Mr and Mrs F £100 as a gesture of goodwill.

One of our adjudicators looked into their concerns and reached the conclusion HSBC hadn't done anything wrong or treated Mr and Mrs F unfairly and so didn't recommend the complaint be upheld. Mr and Mrs F disagreed and so the complaint was passed to an ombudsman for a final decision.

Why I think we can only look at part of your complaint

The rules applying to this service say that, I can't look at a complaint made more than six years after the event being complained about – or (if later) more than three years after the complainant was aware, or ought reasonably to have been aware, of cause for complaint. This is Dispute Resolution rule 2.8.2R(2) – which can be found online in the Financial Conduct Authority's handbook.

Mr and Mrs F raised their complaint in February 2021 in relation to charges applied to their account dating back to 2008. Six years before they raised their complaint is February 2015. And as the bank charges would've been notified to Mr and Mrs F at the time they were being applied, I think they ought to have known enough to decide whether they were unfair or causing financial difficulty. So, I don't think that three years from when they ought to be reasonably aware they had reason to complain (2011) provides Mr and Mrs F with a longer period than the six year rule. So, I will only be looking at charges applied from February 2015.

I can still look into Mr and Mrs F's complaint about overdraft charges outside this time if I'm satisfied the failure to complain earlier was due to exceptional circumstances. Mr and Mrs F have told us that over the years they have both suffered ill health and job losses and have been unable to pay their bills.

I sympathise with Mr and Mrs F and I accept that they have had a lot to cope with over the years. But in coming to my decision I have to be fair to both Mr and Mrs F and HSBC and what I have to decide is whether I think the circumstances outlined by Mr and Mrs F would've *prevented* them from referring their complaint earlier had they chosen to do so.

I have thought carefully about everything they have told us about their circumstances during the relevant period. But some of the charges they are complaining about were applied over 12 years ago.

I understand why referring the complaint may not have been a priority for Mr and Mrs F. But I think they still could have referred their complaint about the charges incurred from 2008 within the time limits, especially as it only takes an email or telephone call to do so.

And as such I don't think that exceptional circumstances apply so I am unable to look at charges applied before February 2015.

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.

Having considered everything provided, I've decided not to uphold Mr and Mrs F's complaint. I'll explain why in a little more detail.

Mr and Mrs F have referred to the proportionality of the charges applied to their account. But 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's various charging structures per se, it won't have acted fairly and reasonably towards Mr and Mrs F if it applied any interest, fees and charges to Mr and Mrs F's account in circumstances where it was aware, or it ought fairly and reasonably to have been aware Mr and Mrs F were experiencing financial difficulty.

So I've considered whether there were instances where HSBC didn't treat Mr and Mrs F fairly and reasonably. I don't think that HSBC did treat Mr and Mrs F unfairly or unreasonably here though. I say this because having looked at Mr and Mrs F's statements I can't see anything to suggest that HSBC ought to have realised they might have been experiencing financial difficulty prior to it being notified of this. I accept that there was a high number of gambling transactions on the account but during these periods the account was in credit – indeed for the period I am able to look at from February 2015 for the most part Mr and Mrs F had a credit balance on their account.

I can see there were occasions where payments weren't made due to a lack of funds in the account but this on its own isn't enough to show that HSBC ought to have known Mr and Mrs F were experiencing financial difficulty before it was made aware of it.

So, in these circumstances I don't think that it was unreasonable for HSBC to proceed with adding the interest, fees and charges it did in light of how Mr and Mrs F's account was being used.

Overall and having considered everything, I don't think that HSBC treated Mr and Mrs F unfairly or unreasonably and this means that I'm not upholding this complaint.

I appreciate that this will be very disappointing for Mr and Mrs F. But I hope they understand the reasons for my decision and that they'll at least feel their concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr and Mrs F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F and Mr F to accept or reject my decision before 11 March 2022.

Caroline Davies
Ombudsman