

The complaint

Ms B has complained that HSBC UK Bank Plc (“HSBC”) acted unfairly by continuing to apply charges to her account when she was in financial difficulty.

What happened

Ms B complained to HSBC that the fees it applied to her account caused her financial difficulty. HSBC says the charges were applied correctly in line with the terms and conditions of the account and didn’t uphold the complaint. And as Ms B was dis-satisfied she referred the complaint to our service.

Ms B’s complaint was considered by one of our adjudicators. They thought that HSBC ought to have realised that Ms B was experiencing financial difficulty by 1 September 2017 and so shouldn’t have added any more interest, fees and charges from this point onwards.

HSBC didn’t agree. It said that Ms B had a healthy income and was aware of her balance and that it had written to her asking her to contact it if she felt a need for a review.

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.

HSBC will be familiar with all the rules, regulations and good industry practice we consider when looking at whether a bank treated a customer fairly and reasonably when applying overdraft charges. So I don’t consider it necessary to set all of this out in this decision.

Having carefully considered everything provided, I’m intending to find that HSBC acted unfairly when it continued charging overdraft interest and associated fees on Ms B’s overdraft from 1 September 2017. By this point, it ought to have been clear that Ms B was in no position to sustainably repay what she owed within a reasonable period of time.

It was clear that Ms B was having difficulty managing her money. Ms B hadn’t seen or maintained a credit balance for an extended period of time. HSBC’s own literature suggests that overdrafts are for unforeseen emergency borrowing not prolonged day-to-day expenditure.

Ms B’s statements show that even after her salary was paid in once she had paid her bills she was continually heavily into her overdraft and was making internal transfers in and out of the account in order to manage this and another overdraft held with HSBC. She was clearly using her overdraft to make ends meet as she was reliant on it to meet essential payments.

So I think that Ms B’s overdraft usage should have prompted HSBC to have realised that Ms B wasn’t using her overdraft as intended and shouldn’t have continued offering it on the same terms. In these circumstances, it ought to have been apparent that Ms B was at a significant risk of experiencing financial difficulty and so should have been treated with

forbearance rather than having had even more interest, fees and charges added to her overdraft. As HSBC didn't react to Ms B's overdraft usage and instead continued charging in the same way, I think it failed to act fairly and reasonably.

Ms B ended up paying additional interest, fees and charges on her overdraft and this ended up exacerbating difficulties she already had in trying to clear it. So I think that HSBC didn't treat Ms B fairly and she lost out because of what HSBC did wrong. And this means that it should put things right.

Putting things right

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Ms B's complaint for HSBC to put things right by:

- Reworking Ms B's current overdraft balance so that all interest, fees and charges applied to it from 1 September 2017 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made HSBC should contact Ms B to arrange a suitable repayment plan, Ms B is encouraged to get in contact with and cooperate with HSBC to reach a suitable agreement. If it considers it appropriate to record negative information on Ms B's credit file, HSBC should reflect what would have been recorded had it started the process of taking corrective action on the overdraft from 1 September 2017. HSBC can also reduce overdraft limit by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave Ms B over their limit.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Ms B along with 8% simple interest† on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then HSBC should remove any adverse information from Ms B's credit file. HSBC can also reduce Ms B's overdraft limit by the amount of refund if it considers it appropriate to do so.

† HM Revenue & Customs requires HSBC to take off tax from this interest. HSBC must give Ms B a certificate showing how much tax it has taken off if they ask for one.

My final decision

For the reasons I've explained, I'm upholding Ms B's complaint. HSBC UK Bank Plc should put things right in the way I've set out above.

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

Caroline Davies
Ombudsman