

Complaint

Mr R has complained that HSBC UK Bank Plc ("HSBC") unfairly continued applying charges on his current account which caused him financial difficulty.

Background

One of our adjudicators looked at Mr R's complaint and thought HSBC should have realised Mr R was already struggling by October 2015. So it needed to refund all the interest, fees and associated charges it added to Mr R's account from this point onwards. HSBC didn't agree and so the complaint was passed to an ombudsman for a final 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.

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 think HSBC acted unfairly when it continued charging interest and associated overdraft fees from October 2015 onwards. By this point, it was evident Mr R was struggling financially.

Mr R's statements leading up to this period show that he was struggling and this is evidenced by the significant number of unarranged overdraft fees. The sheer number of unbroken months he'd incurred these fees clearly demonstrated that Mr R was in a cycle of charges that he wasn't going to be able to break without help to do so.

So I think that by October 2015 HSBC should have treated Mr R with forbearance rather than adding even more interest, fees and charges to his account. All of this means that HSBC should have realised that Mr R was experiencing financial difficulty and offered him help to repay what he owed. As HSBC didn't react to Mr R's account usage, I think it failed to act fairly and reasonably.

Mr R ended up paying additional interest, fees and charges at a time when he was already experiencing difficulty. So I'm satisfied that Mr R lost out because of what HSBC did wrong and that it should put things right.

Fair compensation- what HSBC needs to do to put things right for Mr R

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

- Reworking Mr R's account balance so that all interest, fees and charges applied to it from October 2015 onwards are removed.

AND

- If an outstanding balance remains once these adjustments have been made HSBC should contact Mr R to arrange a suitable repayment plan, Mr R is encouraged to get in contact with and cooperate with HSBC to reach a suitable agreement for this. If it considers it appropriate to record negative information on Mr R's credit file, it should reflect what would have been recorded had it started the process of taking corrective action in October 2015. HSBC can also reduce any overdraft limit by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave Mr R over his 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 Mr R 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 Mr R's credit file. HSBC can also reduce any overdraft limit by the amount of refund if it wishes to do so.

† HM Revenue & Customs requires HSBC to take off tax from this interest. HSBC must give Mr R a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained, I'm upholding Mr R's complaint. HSBC UK 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 Mr R to accept or reject my decision before 14 March 2022.

Jeshen Narayanan
Ombudsman