

## **Complaint**

Mr T has complained that HSBC UK Bank Plc ("HSBC") unfairly increased the interest rate on his overdraft.

## **Background**

One of our adjudicators looked at Mr T's complaint and thought while HSBC was entitled to vary its overdraft interest rate, it should have realised it was unfair to do so in Mr T's case as his overdraft had already become unsustainable for him by September 2020. So it needed to refund all the interest, fees and charges it added to Mr T's overdraft from this point. 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 industry codes of 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 overdraft interest and associated fees from September 2020. By this point, it was evident Mr T's overdraft had become demonstrably unsustainable for him.

A cursory look at his statements leading up to this period shows that Mr T had been hardcore borrowing for an extended period. And he rarely, if ever, saw a credit balance on his account for more than a few days at a time.

So I think that by September 2020 HSBC should have stopped providing the overdraft on the same terms and treated Mr T with forbearance rather than increasing the interest, fees and charges on the overdraft. As HSBC didn't react to Mr T's account usage, and instead increased the charges without taking into account his circumstances, I think it failed to act fairly and reasonably towards him.

Mr T ended up paying increased interest, fees and charges at a time when his overdraft was already unsustainable. So I'm satisfied that Mr T 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 T**

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Mr T's complaint for HSBC to put things right by:

- Reworking Mr T's current overdraft balance so that all interest, fees and charges applied to it from September 2020 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made HSBC should contact Mr T to arrange a suitable repayment plan, Mr T 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 T's credit file, it should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in September 2020. HSBC can also reduce Mr T's overdraft limit by the amount of any refund if it considers it appropriate to do so, as long as doing so wouldn't leave him 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 T 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 T's credit file. HSBC can also reduce Mr T'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 Mr T 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 T'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 Mr T to accept or reject my decision before 21 March 2022.

Jeshen Narayanan  
**Ombudsman**