

## **The complaint and background**

Mrs M has complained that HSBC UK Bank Plc unfairly continued applying charges to her current account which caused her financial difficulty.

One of our adjudicators looked at Mrs M's complaint and thought HSBC should have realised Mrs M's overdraft had already become unsustainable by 1 September 2014. So it needed to refund all the interest, fees and associated charges it added to Mrs M's overdraft from this point. HSBC didn't respond and so the complaint was passed to an ombudsman for a final decision.

## **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 think HSBC acted unfairly when it continued charging overdraft interest and associated fees from 1 September 2014. By this point, it was evident Mrs M was struggling financially.

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

I'm aware that HSBC sent Mrs M letters and text messages about the charges that she was incurring on her account. But given the volume of these letters and messages that HSBC sent, and the fact that Mrs M's account nonetheless continued to incur significant charges every month, I think it should have been clear to HSBC by September 2014 that she needed more direct assistance to get out of the situation she was in.

So I think that by September 2014 HSBC should have treated Mrs M with forbearance rather than adding even more interest, fees and charges to her account. All of this means that HSBC should have realised that Mrs M was experiencing financial difficulty and offered her help to break the cycle of charges and repay what she owed. As HSBC didn't react to Mrs M's account usage, I think it failed to act fairly and reasonably.

Mrs M ended up paying additional interest, fees and charges at a time when she was already experiencing difficulty. So I'm satisfied that Mrs M lost out because of what HSBC did wrong and 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 Mrs M's complaint for HSBC to put things right by:

- Reworking Mrs M's account balance so that all interest, fees and charges applied to it from 1 September 2014 onwards are removed.

AND

- If an outstanding balance remains once these adjustments have been made HSBC should contact Mrs M to arrange a suitable repayment plan, Mrs M 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 Mrs M's credit file, it should reflect what would have been recorded had it started the process of taking corrective action in September 2014. 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 Mrs M over her 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 Mrs M 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 Mrs M'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 Mrs M a certificate showing how much tax it has taken off if she asks for one.

## **My final decision**

For the reasons I've explained, I'm upholding Mrs M'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 Mrs M to accept or reject my decision before 14 March 2022.

Sophie Mitchell  
**Ombudsman**