

The complaint

Mr S complains that HSBC UK Bank Plc (HSBC) marked his credit file with arrears and a default.

What happened

Mr S had a personal loan from HSBC. The balance was £15,981 and repayments were £301.54 a month. His income was affected by the COVID-19 pandemic – he had been put on furlough. In April 2020, HSBC agreed a three-month payment deferral under the support measures introduced because of the pandemic.

On 2 July 2020, Mr S contacted HSBC to ask for an extension – as he was still in the same position. HSBC agreed to a different, 'Long Term No Affordability' (LTNA) scheme for six months. This suspended monthly payments and no interest was charged but the missed payments were marked on Mr S' credit file.

In January 2021, Mr S contacted HSBC again and asked for an extension to the plan. HSBC agreed to this for six months on the same basis. HSBC wrote to Mr S on 6 January 2021 to outline the agreement. On 8 January 2021, they sent a Notice of Default to Mr S, and on 17 February 2021, HSBC sent a Final Demand.

Mr S complained. He said he'd been told to ignore any letters about the arrangements – and that he was not to worry about them. He said he now had a default showing on his credit file, which meant he couldn't get credit for six years. This was unfair, as he'd been led to believe that wouldn't happen.

HSBC said that when the LTNA plan was agreed in July 2020, Mr S was advised about the collections process and the effect on his credit file. And in January 2021, he was advised on the call about the default letter and final demand letter, and the effect on his credit file. HSBC accepted that on that call, the agent said that there was nothing to worry about – which could've been misleading. For that, they paid compensation of £85. HSBC said that Mr S' arrears would show on his credit file from 30 June 2020.

Mr S brought his complaint to us. Our adjudicator said she thought that HSBC were right to offer a LTNA plan in July 2020 as a further COVID-19 payment deferral wasn't in Mr S' best interests – as they thought that Mr S' affordability problems were more long term than three months. She said that between July 2020 and January 2021, Mr S didn't make any payments to his loan, and so was in arrears. When he contacted HSBC again in January 2021, HSBC extended the LTNA plan for another six months and read a script which explained that Mr S would get a default notice and final demand. She said Mr S had also been sent a letter dated 6 January 2021 setting out the plan. By February 2021 - Mr S was six months in arrears on his loan payments, and so HSBC were correct in defaulting his loan and noting that on his credit file.

Mr S didn't agree and asked that an ombudsman look at his complaint.

I reached a provisional decision where I said:

In March 2020, The Financial Conduct Authority (FCA) announced guidance to lenders in response to the effects on customers of the COVID-19 pandemic. All lenders, including HSBC, agreed to put in place 'payment deferrals' on many credit agreements, including personal loans – to help customers who were affected. Customers could ask for a total of two payment deferrals, each of three months – whereby payments could be suspended. Missed payments would not be reported to credit reference agencies, although interest would still be debited to accounts. This support was provided by firms up to the end of October 2020.

In September 2020, the FCA announced that the support scheme would change from the end of October 2020. From then, firms could continue to support customers in difficulty – but it was down to their discretion and customers' circumstances. And – reporting to credit reference agencies was reintroduced for people that had already had the maximum six months of payment deferrals.

There are two parts to Mr S' complaint. Firstly, what was agreed when he asked for an extension to his payment deferral in July 2020; and then what was agreed when he called HSBC in January 2021. In both cases, he argues that he was told he could ignore any letters sent by HSBC – and therefore, the markers on his credit file were unfair.

July 2020:

Mr S had a payment deferral in place from April 2020 to June 2020. This meant that he didn't make any payments to his personal loan during that period, and his credit file wasn't impacted. Interest continued to accrue. This was in line with the FCA's support scheme.

On 2 July 2020, he called HSBC. I've listened to that call. I found the call to be unclear and confusing. Mr S said he was still on a reduced salary as his business sector was hit hard by the pandemic. He said his job and income should start again in September 2020 – but it wasn't certain. So – he couldn't make the loan payments. HSBC took him through an income and expenditure form which showed he had income of £1,600 a month, but outgoings were £81 more than that.

On the call, HSBC put in place a six-month plan, which included a 'collections process', a default notice, arrears notice and that the credit reference agencies would be notified of the missed payments. But – I considered the call handler wasn't very clear or confident in stating this. HSBC then wrote to Mr S on 10 July 2020. The letter said they wouldn't contact him for six months and *"We will also give your name and address to the Credit Reference Agencies named below and tell them that you have missed payments on these account(s). This may affect your ability to obtain credit in future."* HSBC sent Mr S a Notice of Arrears on 26 October 2020.

HSBC said there would be no interest or charges and Mr S replied, *"like on my previous payment holiday"*. The call handler didn't correct him – to say the proposed plan was different. The call handler went on to say, *"you will get regulatory letters...(but) don't panic...throw them in the bin..."* She also said, *"you won't get any demands or a default notice..."*. She then said, *"we are considering extending payment holidays for another three months...keep an eye on this"*.

So – for me, Mr S was asking for an extension to his payment deferral and on the same terms. I think he believed that was what he was getting on the call. I accept that HSBC said on the call there would be collections letters and a default and arrears notice, and they also wrote to him – but on the call, Mr S was told to ignore those. And so – I think he could assume there wouldn't be an impact on his credit record.

But – the main point here is that Mr S should've been given a three-month extension to his previous payment deferral, and not a six-month LTNA arrangement. The FCA guidance on the scheme says that if customers are already in financial difficulty before the pandemic – for example, if they were in arrears – then firms didn't have to agree to provide a payment deferral. But in Mr S' case – I can see the payments to his personal loan were paid up to date up to the first payment deferral in April 2020. So – he wasn't in financial difficulty before the pandemic. So, I'm persuaded that the impact on his income was purely because of the pandemic. And on the call, he said that his income could return to normal in September 2020

– and so HSBC should've agreed to a further three-month payment deferral on 2 July 2020.

HSBC said on the call that the scheme was likely to be extended and that it was for Mr S to look out for it. But – the extension to it was announced on 1 July 2020, and I think it would've been reasonable for HSBC to have either known about that, or to have contacted Mr S afterwards and given him a payment deferral from then.

January 2021:

Mr S' LTNA arrangement was coming to an end and HSBC contacted him in December 2020 about that. On 4 January 2021, he called HSBC. I've also listened to that call, and it was much clearer than the one in July 2020. HSBC asked him if there had been any changes to his income and expenditure since then – Mr S confirmed there weren't. He said he hoped his industry would open up again in the summer.

The call handler offered Mr S a further LTNA plan for six months. He read out a statement which said *"As we have established that for the foreseeable future, you are unable to resume the monthly contractual payments on your Personal Loan, you will be issued with a Default Notice. Following the expiry of this providing that amount set out in the notice has not been paid, you will be sent a Final Demand and your account will proceed to closure if the balance set out in the Final Demand is not repaid. We are required to send you these notices to inform you of the position of your account. Upon closure of the account, a Default will be registered against your credit file which will remain visible for 6 years and may make it more difficult to obtain future lending."*

The call handler checked that Mr S understood. Mr S asked *"so it will affect my credit status?"* The call handler said it would – and Mr S said he agreed and *"there is no other option"*. The call handler then said *"..But there's nothing to worry about"*. But I think that overall, the content of the call and what Mr S was being offered was clear.

The call handler said a letter would be sent to Mr S to confirm the plan. This was sent on 6 January 2021 and it said *"As part of our normal recovery procedures, you will receive a Default Notice when the missed payments reach a certain amount... If you can't pay the overdue amount by the date shown on the Default Notice, we will:...Share information about the default on your account with the following Credit Reference Agencies. This could make it more difficult for you to borrow in future."* And after that, a Notice of Default was sent on 8 January 2021 and a Final Demand was sent on 17 February 2021. And so – I think HSBC did all they could to advise Mr S of the effect of the plan on his credit file.

Putting things right:

I now need to consider what is fair and reasonable to put things right. I believe that HSBC should've offered Mr S a further three-month payment deferral in July 2020. This would've enabled him to miss three payments to his loan, without any effect on his credit file.

Therefore, HSBC should remove the late payments markers for the months of July 2020, August 2020, and September 2020.

But – by then, Mr S would've had the benefit of a total of six months payment deferral – which was the maximum allowed under the FCA scheme. So – that would've meant that in October 2020 – HSBC would've then offered the LTNA plan (rather than in January 2021). It seems likely that Mr S' financial situation at that time would've been the same as in January 2021 – as he was still on furlough - and so the Notice of Default and Final Demand would've been issued three months earlier than they were. And so – I think it's reasonable that the default should be re-dated to November 2020 (rather than February 2021). So – this will remain on Mr S' credit file for six years from that time.

I've considered whether a payment of compensation is reasonable here. The main impact on Mr S of what happened was in January 2021 and February 2021 – and I think that HSBC acted fairly during that period. And they've already paid compensation of £85 for the comment made by their call handler in January 2021 – which I think was fair.

HSBC should've offered a payment deferral in July 2020 instead of the six-month LTNA plan. But the impact of that on Mr S was limited – as he still got the benefit of missing some payments to his loan. And – he was given an interest free period of six months whereas under the payment deferral scheme, interest would've still been charged on balance, I don't think a payment of compensation would be fair here.

Responses to the provisional decision:

Mr S didn't respond, but HSBC didn't agree. They said:

- They believed the LTNA solution given to Mr S was the right one and was within their discretion to do so.
- With hindsight, given that Mr S didn't make any payments to the personal loan for six months from July 2020 – that showed that the LTNA was justified.
- The default should be redated to December 2020, not November 2020 – as December 2020 was when the sixth payment on the personal loan was missed under the LTNA.

I now need to make 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.

I've considered HSBC's points again, but I they don't change my provisional decision. This said that not only should Mr S have been given a further three month payment deferral – because he was due to start work in September 2020; but also I said that I found the communications in the call between Mr S and HSBC in July 2020 to be confusing. And overall, I think it would've been fair and reasonable for HSBC to agree a payment deferral at that time.

The fact that HSBC gave Mr S a LTNA arrangement doesn't mean that this should lead to a conclusion that he could not afford the loan payments and therefore a LTNA was justified – it's simply the case that Mr S didn't make the payments because under the LTNA he didn't need to do so. It follows that the date of the default should also be as I've stated – November 2020.

My final decision

I uphold this complaint. HSBC UK Bank Plc must:

- Remove the missed payment markers from Mr S' credit file for the months of July 2020, August 2020 and September 2020.
- Re-date the default from February 2021 to November 2020.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 April 2022.

Martin Lord
Ombudsman