

The complaint

Ms C complains that HSBC UK Bank Plc have unfairly registered a default on her credit file.

What happened

Ms C had a credit card with HSBC. In August 2017, she became no longer in employment, so she rang HSBC to inform them of her change in circumstance. She says she was informed by the call handler that no further charges would be added to her account during that time.

Ms C also says that she informed HSBC in February 2018, that she hadn't been receiving correspondence from them, as she had spoken to two call handlers that said HSBC had sent her letters about her account. She says she told the call handlers she wasn't aware of the next steps, but the call handlers were unsympathetic to her situation.

Ms C says that a default had been added to her credit file for her account, despite HSBC being aware there were issues with her receiving her post. She says she was never sent a default notice by HSBC and the outstanding debt had been transferred from HSBC to a third party debt collector and back to HSBC on a couple of occasions.

Ms C says that in December 2020, she received a cheque for £50 as HSBC informed her they had reviewed the quality of service she had received by their collections/recoveries team and they'd identified it was not at the standard HSBC would expect. Ms C also noticed that HSBC hadn't stopped all of the charges on her account as a total of £65.87 had been added to her account. Ms C complained to HSBC.

HSBC sent Ms C a cheque for a further £79.45, to reflect the £65.87 they had overcharged her and added interest. But they said any entries on her credit file in relation to her credit card account had been applied correctly. HSBC said as they are a responsible lender, they have a duty to report any defaults, outstanding balances or missed payments to the Credit Reference Agencies.

Ms C brought her complaint to our service. She said she had not been supported during her financial difficulty in 2017-2018 and it was clear she did not understand the process, in addition to not receiving correspondence from HSBC. She says she wants the default to be removed from her credit file. Ms C says she has had poor communication with HSBC throughout the entire time she had an account with them.

Our investigator did not uphold her complaint. On HSBC registering the default, he said HSBC had supported Ms C when she let them know she was in financial difficulty, by applying a breathing space. This would mean no interest was charged on her account between September-November 2017. He said that Ms C did not begin making her contractual payments, addressing the arrears, or getting back in touch with HSBC for further support after this timeframe.

Our investigator explained that the breathing space was generally reasonable for short term financial difficulties – before potentially discussing further options if long term support is

required. But without contact or repayment in December 2017, HSBC sent Ms C a default notice, followed by a final demand. He concluded that HSBC hadn't made an error in applying the default to the account.

In terms of the customer service that Ms C received, our investigator said that while HSBC had passed the outstanding debt to third party debt management companies, they took the debt back on Ms C's requests due to her ill health at the time she requested HSBC to take the debt back. He also explained that the wording Ms C was not happy with on the correspondence from HSBC after she had paid her credit card off was automatically generated and HSBC have apologised for this. Ms C asked for an Ombudsman to review her complaint.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Ms C has made a number of points to this service and I've considered and read everything she's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of her complaint in deciding what's fair and reasonable here. For ease of reading I'll detail my decision in two parts – the default and the customer service.

Default

I've read everything that Ms C has said about the unfairness of the default being applied to her account. I know she feels that as HSBC has said their collections/default process would be different now – and they have paid her compensation because of this, that this is an indication that they didn't treat her fairly at the time she told them she was having financial difficulties. She believes this is why HSBC ultimately applied a default to the account and registered this with Credit Reference Agencies. So I understand why this is so important to her.

But in order to uphold this part of her complaint, I would need to see if HSBC didn't follow the Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies (PRAAD). HSBC have an obligation to ensure her payment history is accurately reflected in the information they report to the Credit Reference Agencies. And I'm satisfied that it has been reported accurately here, and I'll explain why.

The PRAAD states that a default would usually occur if the customer falls into arrears on their account, or they do not keep to the revised terms of an arrangement, a default may be recorded to show that the relationship has broken down. As a general guide, this may occur when somebody is three months in arrears, and normally by the time somebody is six months in arrears.

While Ms C had explained to HSBC she was in financial difficulty, HSBC would still need to follow the guidance set out in PRAAD. I've looked at Ms C's statements during this timeframe and I can see that breathing space had been applied to the account. Breathing space would not usually prevent arrears from being reported to the Credit Reference Agencies. In this case it was a tool to allow Ms C time to get back on her feet after no longer being in employment and interest/charges should be frozen during this timeframe, but arrears would still build up.

Ms C's last payment around the time the breathing space was applied was 4 September 2017. So when Miss C did not make a payment still three months after this and she did not

contact HSBC to update them of her circumstances, HSBC were entitled to send the default notice based on PRAAD guidance. They then sent a final demand, the following month in January 2018. By this point it would have been over four months since Ms C had made her last payment on her account. When the December 2017 default notice was sent out, Ms C was in arrears on her account by over £400.

I've looked at Ms C's credit card statements. I can see that her first payment after the 4 September 2017 payment was on 15 March 2018. So it had been over six months since Ms C had made a payment to her account. This was for £50, which was lower than her contractual monthly payment. So I can't say that HSBC did anything wrong in recording the default here.

I've considered what Ms C has said regarding the phone calls she's had and her not being aware of the process or the next steps. As Ms C is aware, the phone calls are not available to listen to, due to the time that's elapsed since the events happened. So I can't say either way what was discussed here. But due to Ms C's financial difficulties in 2017-2018, I'm not persuaded that a default could have been avoided here.

I say this as Ms C's financial situation does not appear to have improved before the default had been applied. If her financial situation had improved before the default had been applied, I would have expected to see that Ms C would have contacted HSBC to inform them this. At the very least I would have expected Ms C to resume payments to her credit card and if possible, to clear as much of the arrears of possible. But her statements do not reflect that this happened. So I'm persuaded the default would have always been inevitable due to Ms C's financial difficulties, regardless of the conversation she had with the call handlers about her financial difficulties.

HSBC also met their regulatory duties by keeping Ms C up to date of the arrears status. Not only would this be apparent on her monthly credit card statements. But HSBC also sent her letters regarding the arrears, including, but not limited to a default notice and a final demand. I've read that Ms C had issues with some of the correspondence that HSBC has sent her and she's said that HSBC had not sent her a default notice. But I'm satisfied they did. The letter is addressed to her registered address at the time. So I've no doubt HSBC did send this.

It may help if I explain to Ms C that HSBC are required to send certain correspondence by post. So even though Ms C says she made HSBC aware that she wasn't receiving all of the post they had sent her, HSBC would be required by the regulator – the Financial Conduct Authority, to send certain correspondence by post. A default notice is generally one of the documents that would be required to be sent by post. So although Ms C says she didn't receive this, I can't hold HSBC responsible for any issues in the postal system, once HSBC had sent the required notices to her registered address.

Although HSBC have since changed their collections/default process, they still had a duty to register the default in line with the aforementioned PRAAD guidance. HSBC's procedure at the time was to continue charging fees/interest until a debt management plan had been agreed with a debt management company, whereas now they would suppress all fees and interest once a customer seeks help with a debt management company. I'm persuaded that the new procedure would have still resulted in the default being registered on Ms C's credit file even if this was in place when she suffered financial difficulties.

In summary, I've found no errors in how HSBC have registered the default. Ms C was unfortunately unable to make at least her contractual monthly payment for a substantial period of time – at least three months before the default notice had been sent to her registered address and she had not made a payment for over six months from 4 September

2017 – 13 March 2018. So I know Ms C will be disappointed, but I'm unable to ask HSBC to remove the default.

Customer service

As previously mentioned, I don't have access to the telephone conversations that Ms C has had with HSBC, so I'm unable to rely on these here. I've considered what Ms C has said about her account being passed to a third party debt management company and back to HSBC on two occasions. But HSBC would be entitled to transfer a customer's debt to a third party debt management company to assist with collecting payments/arrears on the account. As the complaint is against HSBC, I can only look into their actions here and not what a debt management company have communicated (or not communicated to Ms C).

I've looked at the notes HSBC have provided me regarding this. They show that the outstanding debt had been placed with a third party debt management company on 10 December 2018 and Ms C asked for this to be passed back to HSBC on 1 February 2019, as she explained she was back to work and asked HSBC to take the debt back – management agreed to this on 4 February 2019.

The notes show this was passed to a third party debt management company on 4 May 2020 as Ms C had requested an arrangement on 3 June 2019, but this was rejected as Ms C was off work with ill health. Ms C asked for this to be passed back to HSBC which they agreed to in June 2020. So while it might be unusual for a company to transfer the debt back and forth, it appears there was legitimate reasons to do so here. HSBC have acted upon Ms C's requests to return the debt to them – even though they didn't have to. So although Ms C doesn't feel it was clear what happened here, ultimately, HSBC acted upon her requests.

Ms C says HSBC did not act upon a Data Subject Access Request (DSAR) she was advised to raise on a call on 17 March 2021. HSBC said they had no records of her requesting a DSAR at all. I asked HSBC to send me the call recording, or if they didn't have the call recording, to send me the call notes. HSBC sent me the call notes and they show that Ms C called them to get information on settlements, but it doesn't show she requested a DSAR.

The notes state that Ms C was offered a 20% discount in 2018 and she asked if the offer was still valid, which the call handler confirmed it wasn't, and they wouldn't offer any discounts now, but she could put forward an offer for them to consider. Ms C then says she will contact them in a few days. HSBC have told me that they can raise a DSAR if Ms C wants them to, so I've asked our investigator to raise this on her behalf, so Ms C should receive this directly herself in due course.

I've considered what Ms C has said about the letters she received in May 2021 being sent to a previous address. I asked HSBC about this. They could not confirm to me why this had happened. I'm persuaded this is likely to be because HSBC did not update all of the relevant systems when Ms C informed them of her change of address. It is my understanding that the cheques she had been sent were sent to her correct address, so it appears different systems have different addresses for Ms C.

So I'm satisfied that they've let Ms C down here. It's my understanding that the letters were sent to Ms C's parent's address (which was her old address), so thankfully her parents were able to inform Ms C of this. But this would have inconvenienced Ms C and potentially distressed her. So I think it's only fair for HSBC to recognise the impact that this would have caused her.

I've then considered what Ms C has said about HSBC referring to her credit card as a loan and the content of the letters that HSBC sent to the previous address. It would have been

useful for the representative to refer to the correct product. HSBC have confirmed the letters they had sent her were automated.

I'm not persuaded that referring to a credit card as a loan would have a big impact on Ms C, although I can understand why this would frustrate her when she feels she's had no help from HSBC during the events which led to her default. I can also understand why the automated letters would make no sense to Ms C – as she didn't have access to online banking, which one of the letters refers Ms C to her online document folder.

Based on the wording of the other letter, this would be relevant for a customer who chose to close their account, not one who's account was closed down because of her financial difficulty and subsequent default. So I can understand why Ms C feels HSBC haven't taken her circumstances into account when they've communicated with her.

So I've considered whether the compensation which HSBC paid Ms C was sufficient for the customer service issues she's faced here. I know HSBC have previously sent Ms C cheques for the reviews they've carried out, but these issues are separate to what HSBC's reviews were about. Ms C has previously said that she didn't cash in these cheques so I asked HSBC if these would have expired. HSBC said that if the cheques had expired, then Ms C should contact their business review team on the telephone number which is on their letter they sent Ms C, so they could stop the cheques Ms C was sent and send out new cheques. So I would urge Ms C to do this.

But I do not think this covers the impact of the poor customer service Ms C had from HSBC, such as them sending correspondence to a previous address. While I'm satisfied the default was correctly applied, the poor customer service could make Ms C question that if HSBC got many things wrong (such as sending correspondence to a previous address, referring to the credit card as a loan, directing her to an online account she didn't have and inferring she closed down her own credit card) then they could've applied the default incorrectly also.

HSBC should recognise the impact the poor customer service has had on Ms C here and pay her extra compensation for this. I'm satisfied that an extra £100 would recognise the impact that this had on Ms C. While some of the issues were due to automated letters, or they shouldn't have had a big impact on Ms C, I think an extra £100 would recognise the inconvenience and distress the poor customer service had on her. So it follows I intend to ask HSBC to put things right for Ms C."

I invited both parties to let me have any further submissions before I reached a final decision. HSBC accepted the provisional decision. Ms C did not respond to the provisional 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.

As neither party have provided me with any further information to consider, then my final decision and reasoning remains the same as in my provisional decision.

Putting things right

In my provisional decision I said I intend to ask HSBC to pay Ms C an extra £100 for inconvenience. I'm still satisfied this is a fair outcome for the reasons given previously.

My final decision

I uphold this complaint in part. HSBC UK Bank Plc should pay Ms C an extra £100 for inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 12 July 2022.

Gregory Sloanes
Ombudsman