

The complaint

Mr B says he had multiple accounts with overdraft facilities with HSBC UK Bank Plc ("HSBC") and that the charges applied have been excessive, unfair and caused him financial difficulties.

What happened

Mr B held three accounts with HSBC two of which were jointly held. Mr B complained to HSBC regarding the overdraft charges applied to the accounts which he says caused him financial difficulties.

HSBC says all the charges were correctly applied in line with the terms and conditions of the accounts and that it supported Mr B by writing to him regarding the status of the accounts and asking him to contact its financial support team and providing the details of external debt advice organisations that could help.

Mr B's complaint was considered by one of our adjudicators. They thought having reviewed Mr B's statements from May 2016 that HSBC should refund all fees and charges applied to Mr B's account from February 2017 because a review of his accounts would've suggested that there should've been some changes to the way it was offering overdrafts.

HSBC disagreed. It says since 2017 it had actively assisted Mr B in reducing the overdraft facilities on his accounts.

So the complaint came to me for a 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.

Firstly, to be clear this decision is only in relation to the account held in Mr B's sole name.

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 February 2017 on account number ending 0603. By this point, it ought to have been clear that Mr B was in no position to sustainably repay what he owed within a reasonable period of time.

By this point, HSBC ought to have realised that Mr B's use of his overdraft was unsustainable. Mr B's statements over all three of his accounts show significant gambling, payday loans and that he was consistently overdrawn and near the top of his limit. In these circumstances, HSBC ought to have realised that Mr B was at a significant risk of being unable to repay what he already owed.

HSBC say Mr B's never contacted it about being in financial difficulty. But by HSBC's own admission it says it wrote to Mr B on a number of occasion's regarding the use of his overdraft and asking him to reduce it. So I think it was clearly aware Mr B wasn't using the overdraft as intended. HSBC should have stopped providing the overdraft on the same terms and treated Mr B with forbearance rather than charge even more interest, fees and charges on the overdraft.

Mr B ended up paying additional interest, fees and charges on his overdraft and this ended up exacerbating difficulties he already had in trying to clear it. So I think that HSBC didn't treat Mr B fairly and he lost out because of what HSBC did wrong. And this means 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 MR B's complaint for HSBC to put things right by:

- Reworking Mr B's current overdraft balance on account ending 0603 so that all interest, fees and charges applied to it from February 2017 are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made HSBC should contact MR B to arrange a suitable repayment plan, Mr B is encouraged to get in contact with and cooperate with HSBC to reach a suitable agreement. If it considers it appropriate to record negative information on Mr B's credit file, HSBC should reflect what would have been recorded had it started the process of taking corrective action on the overdraft in February 2017 HSBC can also reduce overdraft limit by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave Mr B over their 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 B 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 B's credit file.

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

My final decision

For the reasons I've explained, I uphold Mr B's complaint against HSBC UK Bank Plc and direct it pay the fair compensation I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 November 2022.

Caroline Davies
Ombudsman