

The complaint

Mr H has complained that the charges HSBC UK Bank Plc ("HSBC") applied to his account caused him financial difficulties.

What happened

Mr H complained to HSBC about the charges applied to his account when it allowed him to go into unauthorised overdraft. HSBC issued its final response to this on 5 September 2017. Mr H referred his complaint to our service in 2022 but because it was referred more than six months after HSBC issued its final response letter we couldn't look at Mr H's complaint as it was referred to us outside the time limits.

HSBC did agree to consider Mr H's complaint regarding its charges from the date of its final response letter (5 September 2017).

Mr H's complaint was considered by one of our adjudicators. They thought having reviewed Mr H's statements from September 2017 that Mr H was struggling to maintain a credit balance and HSBC was making his situation worse by adding further fees and charges. They thought HSBC should refund all charges from 22 May 2018.

As Mr H hasn't accepted our adjudicators view 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'm currently intending to find that HSBC acted unfairly when it continued charging overdraft interest and associated fees after it issued its final response letter in September 2017 and think it should've stepped in by 22 May 2018. By this point, it ought to have been clear that Mr H was having difficulty maintaining a credit balance and was in no position to sustainably repay what he owed within a reasonable period of time when it kept allowing his account to become overdrawn.

By this point, Mr H had already got in contact with HSBC to ask for help as he was having difficulty with his finances and that the charges being added were making this worse.

Following HSBC issuing its final response letter Mr H received a few large credits into his account which I accept enabled him to pay off the unarranged overdraft and maintain a credit balance for around three months. But following this around February 2018 Mr H was again allowed to go into unauthorised overdraft - mainly from cash withdrawals. And by May 2018 Mr H's account was £731.61 overdrawn.

I can see from this point HSBC wrote to Mr H about the status of his account and started declining transactions but it continued to apply interest and fees making his financial situation worse and making it more difficult to pay the overdraft back. In these circumstances, it ought to have been apparent that Mr H was experiencing financial difficulty and so should have been treated with forbearance rather than having had even more interest, fees and charges added to his account.

Mr H ended up paying additional interest, fees and charges for being overdrawn and this ended up exacerbating difficulties he already had in trying to bring his account back into credit. So I think that HSBC didn't treat Mr H 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 H's complaint for HSBC to put things right by:

- Reworking the account so that all interest, fees and charges applied to it after 22 May 2018 are removed.

AND

- If an outstanding balance remains on the account once these adjustments have been made HSBC should contact Mr H to arrange a suitable repayment plan, Mr H 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 H's credit file, HSBC should reflect what would have been recorded had it started the process of taking corrective action on the account on 22 May 2018.

OR

- If HSBC has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.
- 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 H 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 H's credit file.

† HM Revenue & Customs requires HSBC to take off tax from this interest. HSBC must give Mr H 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 H's complaint against HSBC UK Bank Plc and direct it puts things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 November 2022.

Caroline Davies
Ombudsman