

The complaint

Mr N complains that there was a lack of clarity and conflicting information from HSBC UK Bank Plc trading as HSBC and his accounts were unfairly defaulted.

What happened

Mr N has a loan and credit card with HSBC. And, towards the end of 2019, HSBC supported him with a 2-month Short Term No Affordability (STNO) plan. This was because Mr N was experiencing financial difficulty.

HSBC say that as they couldn't contact Mr N when the STNO concluded, they informed him their collection process would resume and this could result in a default and final demand.

Mr N found it difficult to find work in 2020, due to the Covid-19 pandemic. HSBC say they continued to ask him to make contact and, in April and September 2020, issued arrears notices for his loan.

Mr N contacted HSBC in January 2021 and requested payment holidays. In February 2021, HSBC agreed a 6-month Long Term No Affordability (LTNA) plan, however they said this could lead to a default notice and final demand.

As Mr N said he would be starting a job in September, HSBC agreed a one-month hold. When discussing his accounts, Mr N realised that his missed payments had been accrued. He thought they had been suppressed so he felt he had been misinformed.

He complained to HSBC and requested the arrears on the loan be written off. Also, that his credit file be restored to show no missed payments. HSBC didn't uphold his complaint and said no monthly contractual payments had been received since October 2019 and, as a result, his arrears had increased month on month.

Mr N had an additional complaint about his credit card, which HSBC upheld and offered both an apology and £50 compensation. This is because they gave advice on different plans without going through an income and expenditure process. And, this resulted in Mr N thinking a plan was possible when it wasn't, due to a Final Demand having been issued. However, although HSBC were apologetic, they couldn't agree to Mr N's request to stop the collections process.

Mr N complained to our service as he feels HSBC weren't clear about the arrears on his loan and gave conflicting information. The outcome he is seeking is for the arrears to be written off and adverse information removed from his credit file.

Our investigator's view was that it was fair for HSBC to register a default. However, she thought HSBC should have processed the defaults much earlier. So, she said the defaults should be backdated to September 2020. HSBC agreed to backdate the defaults.

However, as Mr N remains dissatisfied this case has now been referred to me to look at.

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.

Having done so, for the following reasons, I share the view the investigator took that it was fair for HSBC to process the defaults and Mr N ought to have reasonably been aware of the arrears. Also, that HSBC should've processed the default at an earlier date.

I first looked at Mr N's circumstances including the impact of Covid-19 and whether the support given by HSBC was fair and reasonable.

I'm satisfied that Mr N had characteristics of vulnerability according to the Financial Conduct Authority's (FCA's) guidance on this topic. So, I considered if HSBC should have given Mr N payment holidays as opposed to the above mentioned STNO and LTNA plans. This is because a payment holiday would've prevented a build-up of arrears.

Although FCA guidance included the offering of payment holidays, they said it's not suitable for every consumer. And, there is evidence on file that Mr N was unable to make payments in 2019, which was prior to the pandemic. Also, I'm mindful that the FCA guidance was about short-term support and banks shouldn't be expected to hold an account open indefinitely without payment. In addition, HSBC put in place a STNO plan in 2019 and tried to reach out to Mr N.

So, I think it was reasonable for HSBC to view a payment holiday as unsuitable. And, whilst the plans HSBC put in place meant arrears accrued, they offered help by stopping charges and interest. HSBC also provided Mr N with contact information and details of charities and organisations he could contact for free advice. So, considering the amount of missed payments here, I'm satisfied that HSBC's support was fair and reasonable.

I then considered whether Mr N had been misled and I viewed correspondence, contact notes and listened to the call recordings on file. Although Mr N says he was confused and would have preferred HSBC to have phrased arrears differently, I found all the file information clarified that the monthly contractual payments were still due. And, any missed payments would be classed as arrears and reported to credit reference agencies. So, I'm not persuaded that HSBC have been unclear on the arrears and I think Mr N should've been reasonably aware contractual payments were still due.

Although I agree with the investigator, that HSBC should've processed the defaults sooner, I couldn't see they had made any processing or communication errors and had acted in a fair and reasonable way. This is because Mr N had missed a significant number of contractual payments over a two-year period. And, despite the above-mentioned support, it's clear that Mr N couldn't make the payments. Also, under a credit agreement, the minimum monthly payments or the contractual monthly payments for a loan must be made – otherwise, account holders are judged to be in arrears. And banks normally consider a default if payments are missed for at least three months.

Finally, I looked at the conflicting information Mr N received over a credit card payment plan.

As HSBC don't dispute there was a communication error when discussing the credit card, what's left for me to decide is what is fair and reasonable to put this particular error right. Having done so, I'm satisfied that HSBC's apology and £50 compensation is fair for this type of error. And, that because of HSBC's Final Demand actions, caused by non-payment, it would've been unreasonable for HSBC to stop their collections process.

So, considering all of the above, I don't think HSBC need to take any further action with regards to Mr N's complaints.

However, I have noted that HSBC agree that there was a prolonged period of time where Mr N didn't make a payment and it would have been fair for the default to be applied earlier, in September 2020, when it became apparent that Mr N was not able to make the contractual payments. So, I will instruct HSBC to backdate the default dates for both the loan and credit card account. This will reduce the period the default will be held on Mr N's credit file.

My final decision

HSBC UK Bank Plc trading as HSBC has already made an offer to pay Mr N £50 to settle the complaint and I think this offer is fair in all the circumstances. And, following the investigator's view HSBC UK Bank Plc trading as HSBC have offered to backdate the default, for both the loan and credit card account, to September 2020.

So, my final decision is that HSBC UK Bank Plc trading as HSBC should pay Mr N £50 including any amounts it has already paid. Also, HSBC UK Bank Plc trading as HSBC should backdate the default, for both the loan and credit card account, to September 2020.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 9 January 2023.

Paul Douglas
Ombudsman