

## **The complaint**

Ms B is complaining that HSBC UK Bank Plc closed her credit card account.

## **What happened**

Ms B had a credit card account with HSBC.

In September 2016, September 2017 and September 2018 HSBC sent Ms B 'persistent debt letters' which explained that she was only making minimum, or close to minimum, payments to her account. And that this would lead to her paying more in interest as it would take her longer to clear her balance. In April 2019 they wrote a first persistent debt letter to her to say she was paying more in interest and charges than she was repaying – and if this didn't change over the following 18 months they may cancel or restrict her account.

Ms B increased her repayments above the minimum repayment. In January 2020 HSBC wrote to Ms B to explain the position had improved, but it would monitor things for the next nine months. If Ms B repaid more towards what she borrowed rather than in interest and charges added since April 2019 no further action would be taken - but if not, further steps such as cancelling or restricting her account may be taken.

In March 2020 Ms B contacted HSBC to explain she was in financial difficulties due to the pandemic. She asked HSBC to consider suspending her payments for March and April. HSBC replied to Ms B agreeing to suspend payments on her account for 60 days, until Ms B could submit proposals for repayment, and they also said they'd suspend interest. They also placed a block on Ms B using her card, although they didn't tell Ms B this at the time.

Ms B says she delivered a hand-written letter to HSBC around August 2021 asking for the account to be returned to normal. She continued to make the minimum payments, and interest remained suspended.

Ms B's account was closed and passed to collections in February 2021. Her card expired in March 2021 and interest remained suspended.

In August 2021 Ms B became aware that her account wasn't in use when a regular payment wasn't paid. She contacted HSBC to ask why her account had been suspended without her being notified. HSBC replied to say they thought the block was a mistake, and they'd arrange for the account to be reinstated and a new card to be sent to her. They paid Ms B £75 for the distress and inconvenience.

After further investigation, HSBC replied to Ms B again. They explained that the previous adviser she'd spoken to had made a mistake, and her account couldn't be unblocked. They said they'd suspended her account in line with their policy to implement the Financial Conduct Authority's (FCA's) guidelines about persistent debt, because she'd only been making the minimum monthly payment. They paid Ms B another £75 for the incorrect information she was given.

In October 2021 HSBC started to apply interest to Ms B's account again. And on 2 October

2021 they again sent another 'stage one' persistent debt letter explaining that she was paying more in interest and charges than she was repaying.

Ms B brought her complaint to us, and it was looked at by one of our investigators. Our investigator didn't uphold Ms B's complaint, because she thought Ms B had benefited financially from interest being suspended for around 18 months. She thought the distress and inconvenience payment Ms B had received, of £150 in total, was fair.

Ms B says she thinks HSBC have decided to close her account because of her age and the likelihood of her repaying the debt in the pandemic. She says she's willing to repay the interest she would have paid during the time it was suspended if HSBC will reinstate her account, as she's been inconvenienced by not having access to a credit card.

I asked HSBC for some more detailed reasoning about why they suspended Ms B's credit card account under the persistent debt process. They replied to say they're offering to refund the interest they applied to Ms B's account after October 2021, and will stop further interest being applied. But they're unable to reinstate the account and it wouldn't be responsible for them to do so.

Ms B's complaint was passed to me for review and a decision. I issued my provisional decision on 31 August 2022. This is what I said.

#### *My provisional decision*

*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, I don't think HSBC have treated Ms B fairly here, so I'm going to ask them to put things right.*

*It's not particularly clear to me what the reasoning is for Ms B's account being suspended under the persistent debt policy now, and it doesn't help that HSBC seem confused about what's been happening with Ms B's account themselves. Looking at everything, I think the ongoing suspension of the account was most likely prompted by HSBC's persistent debt process, in line with what they've explained in their final response letter.*

*But, despite me asking them to, I don't think HSBC have clearly explained why the persistent debt process triggered the suspension of Ms B's account here, which means at the moment I can't say that the process has been applied fairly in Ms B's case. I'll explain why – and I'd invite HSBC to comment further on this point in response to my provisional decision.*

*In 2018 the FCA issued rules for businesses to follow where a customer is in persistent debt. Persistent debt is when a customer has paid more in interest, fees and charges than they've repaid towards the capital they owe over the previous 18 months, and businesses should assess whether a customer falls within this definition at least once a month.*

*The rules say, in summary, that where a business assesses that a customer is in persistent debt, they should write to them at the 18 month stage, the 27 month stage and the 36 month stage. The 36 month letter should set out options to the consumer for increasing their repayments, and if the consumer is unable or unwilling to increase their repayment the business should generally suspend use of the credit card.*

*I can see that HSBC sent Ms B letters in April 2019 and January 2020 – it looks like these are the 18 month and 27 month letters under the persistent debt process. HSBC said they'd monitor Ms B's account for another nine months following their letter of January 2020 – and*

*if interest and charges exceeded the payments Ms B made over the previous 18 months (so between April 2019 and September 2020) they'd consider options such as suspending the account.*

*I've looked at the figures from the statements HSBC's provided and I can see that between April 2019 and September 2020 Ms B was charged around £565 in interest and repaid around £1,938. She was still using the card, and spent around £725 during this time. But the overall balance reduced from around £3,557 to £2,949.*

*This includes the period interest was suspended prior to September 2020. But even if interest hadn't been suspended from March 2020, as of September 2020 Ms B would still have repaid more than she'd been charged in interest (which would have been in the region of £240 for this six-month period.) So, I don't think it would have been reasonable for HSBC to have taken any further action to suspend the account under the persistent debt process at that time. And before the pandemic lockdown caused Ms B financial problems in March 2020, she was taking steps to pay more than her minimum payment.*

*HSBC have maintained they've suspended Ms B's credit card account due to persistent debt. But as I've explained, it's not clear from the information they've given me what the trigger was for the action of suspending the account under the persistent debt process, because after the letter of April 2019 Ms M took steps to increase her payments above the minimum payment in May, July and October 2019. Although there was some spending on the account, the overall balance reduced by around £600 over this period. So, as far as I can see her account would no longer have fallen under the definition of a persistent debt.*

*And in any event if HSBC were following the persistent debt process they should have sent Ms B a 36 month letter to set out her options for repayment before taking action such as suspending her account due to persistent debt. And they've told me they didn't send Ms B that letter. HSBC have also recently sent Ms B another 'stage one' persistent debt letter after suspending her account which I wouldn't expect to see if her account had already been suspended due to persistent debt.*

*I'm glad to see HSBC acted positively in suspending interest on Ms B's account when she let them know she was in difficulty due to her work being affected by the pandemic lockdown. And I don't think it was unreasonable for them to suspend use of her credit card temporarily at that point.*

*But Ms B did continue to make the minimum payments despite HSBC agreeing to suspend them. And she says she told HSBC shortly after her initial letter that her financial situation had improved after the initial shock of lockdown to her business and she wanted to continue to run her account as normal. And so I think after 60 days it would have been reasonable for HSBC to have reassessed the position of her account. I haven't yet seen any clear reason or explanation as to why at that point they wouldn't have reinstated use of her credit card and recommenced charging interest if they'd reassessed things as they should have.*

*I don't think HSBC's error in not re-applying interest earlier after they didn't receive any repayment proposals means that it's fair that Ms B's credit card account should remain suspended now. These are two separate things. Ms B has benefited financially through interest not being applied, but she didn't ask for this benefit, and wasn't aware of it. Ms B's also made it clear she's willing to repay the interest she would have been charged if the credit card account can be reinstated now, which seems reasonable to me.*

*Overall, I can't see that HSBC have demonstrated that they've correctly followed the persistent debt process here to lead to the suspension of Ms B's account. And unless they can provide me with anything else to show that they have, or any other clear and valid*

*reason why the account wouldn't, in any event, have been reinstated, I think they should put Ms B back in the position she would have been in if they'd reinstated her account after the initial 60 day suspension due to her financial difficulties during lockdown.*

*I can also see that Ms B has been inconvenienced and distressed by this situation. She thinks HSBC are discriminating against her due to her age, and she's very upset by this. I can understand why she'd feel this way, but I'd like to reassure her that I've not seen anything to suggest that HSBC have discriminated against her.*

*But I can't make a legal finding on discrimination – I can only decide if HSBC have treated Ms B fairly and reasonably. And what I've seen so far leads me to think they haven't done so here. So, I think they should pay Ms B a further £250 to recognise the impact this has had on her.*

I asked both parties to reply to my provisional decision by 30 September 2022 if they wanted to add anything else.

Ms B replied to say she accepted my provisional decision.

HSBC replied on 6 October 2022 to say, in summary, that they now thought Ms B's account *hadn't* been closed due to persistent debt, and in fact the account had been marked out of persistent debt in October 2020. But they hadn't yet established why it had been closed and would look into this further.

They also said their system wouldn't allow them to reinstate Ms B's account. They said a new credit scored application would be required and if it was declined they wouldn't be able to set up a new card.

We gave HSBC until 9 November 2022 to provide their full response. But they've still not provided this. To be fair to both parties, and taking into account the extra time HSBC have already had to respond to my provisional decision, I'm now issuing my 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.

Overall, I haven't seen anything in the responses from either party that would lead me to change my provisional decision to uphold Ms B's complaint.

I think HSBC have had enough time to investigate why Ms B's account was closed. As I've explained in my provisional decision, they've told us throughout the investigation that Ms B's account was closed due to persistent debt. They've now told us this wasn't in fact the case; but they still haven't been able to explain why the account was closed. In the absence of an explanation it doesn't seem unreasonable to conclude that the account was closed by mistake.

And I still think a fair resolution would be for HSBC to put Ms B in the position she would have been in *but for* the mistake; in other words, to reinstate her credit card account in the way I've explained. I do appreciate that HSBC have said this is difficult for them to arrange on their system, but this doesn't change my decision that this is a fair way to resolve things.

I should clarify that Ms B's credit file should not be detrimentally affected by the account being reinstated. For example, if HSBC do carry out a new search of Ms B's credit file to

reinstate the account (as they've indicated they will) they should arrange for any record of it to be deleted.

### **My final decision**

My final decision is that I uphold this complaint. HSBC UK Bank Plc should:

- Reinstate Ms B's credit card account on the same terms as it was held before it was suspended, including use of the card;
- Rework the account so that interest was only suspended for 60 days from when Ms B contacted HSBC about her difficulties due to lockdown; and
- Pay Ms B a further £250 in compensation for the impact this has had on her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 10 December 2022.

Helen Sutcliffe  
**Ombudsman**