

Complaint

Ms P has complained that HSBC UK Bank Plc ("HSBC") incorrectly calculated the amount she needed to pay when she asked to settle her loan early in November 2021.

Background

In August 2018, Ms P successfully applied for a loan for £15,000.00 from HSBC. The loan had an APR of 7.9% and a term of 60 months. This meant that the total amount to be repaid of £18,091.75, which included interest, fees and charges of £3,091.75, was due to be repaid in a first monthly instalment of £301.48 followed by 59 monthly instalments of £301.53.

Ms P contacted HSBC about settling her loan early in November 2021. However, she was unhappy at the settlement figure she was quoted as she thought that it didn't include enough of an interest rebate given how much of the loan term was left. As a result of this, Ms P decided against settling her loan and complained about the amount she was being asked to repay.

HSBC investigated Ms P's complaint and didn't think it had done anything wrong when providing Ms P with her settlement figure. In its view, it had calculated the amount Ms P was asked to pay in line with the appropriate regulations. Ms P remained dissatisfied and referred her complaint to our service.

When Ms P's complaint was referred to one of our investigators, HSBC offered to pay Ms P £200 in compensation for any distress and inconvenience this may have caused. Our investigator thought that HSBC's offer was fair and reasonable in the circumstances of the case. In his view, Ms P hadn't paid any extra interest as a result of any error in calculating the settlement figure for her loan because she didn't settle the loan early.

Ms P disagreed with our investigator's assessment and asked for an ombudsman's decision.

My findings

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

Ms P believes that at the time she requested her early settlement figure she should have received an interest rebate of £1,133.64. Ms P says this is because she was due to pay £3,091.75 in interest over the course of her loan. And this meant that £51.53 of her monthly repayment was going towards interest and £250 towards the £15,000.00 she was initially lent. As Ms P had 22 repayments left to make, this meant that £1,133.64 of her outstanding balance of £7,032.01 was made up of interest she shouldn't have to pay as a result of settling her loan early.

On the other hand HSBC said that Ms P was only entitled to an interest refund of £95.02. And while it said that the settlement amount complied with the regulations in place, it hasn't really been able to demonstrate how this is the case.

I've carefully thought about what both Ms P and HSBC have said.

In truth, as Ms P didn't settle her loan in November 2021 the amount HSBC asked her to pay is no longer of critical relevance to this complaint. Nonetheless, given it's clear that Ms P still feels strongly about this matter, I've looked into the amount HSBC asked Ms P to pay in order to settle her loan early and whether this was worked out in accordance with the applicable early settlement provisions.

The rules regarding early settlement

I think that it would help for me to start by explaining that Section 94 of the Consumer Credit Act 1974 allows a borrower to settle a regulated credit agreement – such as Ms P's agreement with HSBC - and discharge their indebtedness early. And where a consumer requests to settle a credit agreement early, like Ms P requested to do here, the Consumer Credit (Early Settlement) Regulations 2004 ("the regulations") set out how a lender should work out what the customer needs to pay in order to settle the amount outstanding.

Section 5 of the regulations allows a lender to calculate a settlement for (and valid until) a date 28 days after the request for a settlement figure was made. And interest would be charged for this 28-day period. Furthermore, if the agreement in question has a term for longer than a year, like Ms P's five year agreement did, section 6 of the regulations allows the lender to defer the settlement date, for the purposes of calculating an interest rebate, by a further 30 days.

Therefore, as Ms P's request was a request to settle an agreement which had an original term of longer than one year early, the regulations permitted HSBC to charge interest for a period of 58 days from the date of the settlement request. And this immediately means that while Ms P had 22 months left to run on her loan, she wouldn't be entitled to a rebate for the interest that would have been due over that entire period.

Amortisation - how loan repayments are applied to outstanding balances

It's important to note that all loans – irrespective of whether interest is added upfront or on a daily basis - are based on an amortisation schedule where each instalment is made up of some of the interest and charges and some of the capital advanced. And this usually means that even though a monthly payment may appear relatively large - in proportion to the amount borrowed - a much smaller proportion of this payment goes to repaying the capital in the early stages.

So many consumers in Ms P's position may believe that they've paid off more of their loan than they have due to the cash amount of the total payments made, because they're unaware of the way that their loan would be amortised and a larger proportion of the early payments were going towards the interest.

In Ms P's case her own calculations indicate that she believes that £250 of each of her monthly repayments was going towards repaying the capital balance from the outset. And the remaining £51.53 of her monthly payments was going to the interest that needed to be paid. As explained, Ms P has arrived at this figure by dividing the total interest payable by the number of monthly payments she had to make.

But I've explained that this isn't the way that payments are treated. And the amortisation schedule for Ms P's loan correctly shows that £179.17 of Ms P's first payment, which was made on 28 September 2018, went towards the interest accrued since she received her £15,000.00 advance on 2 August 2018. This was an unusually larger amount of interest because Ms P's first payment was made almost 2 months after her advance.

Nonetheless the proportion of Ms P's second payment that went towards interest was £96.38 as the capital balance owing was £14,877.69, which is £122.31 less than it was at the start. And as the amount Ms P owed reduced with each payment she made, the proportion of her payments that went towards repaying interest also reduced. But it would be some time further down the line before only £51.53 of Ms P's payment would be going towards interest and £250 to the amount owed.

Indeed when Ms P paid instalment number 18, in March 2020, £72.41 of this payment went towards interest. And having looked at the amortisation schedule used, I'm satisfied that there were no issues with HSBC's calculations up until this point.

Ms P's three-month payment deferral in April 2020 and the effect it had on the outstanding balance going forward

As I understand it, Ms P successfully applied for a pandemic payment deferral in April 2020. As a result she, with HSBC's agreement, didn't make loan repayments in April 2020, May 2020 and June 2020. It's worth noting that the regulator's guidance did permit lenders to charge interest during any pandemic payment deferrals.

Although this wouldn't have made any difference to the total amount Ms P had to pay had the loan run to term because HSBC simply added three extra payments at the end of the term to account for the three deferred payments. Nonetheless by the time Ms P resumed her loan repayments in July 2020, the amortisation schedule was thrown out of kilter by the fact that interest would have accrued on a balance that hadn't reduced in line with the initially proposed schedule.

From what I can see, HSBC appears to have tried to correct this by apportioning £277.11 of Ms P's July 2020 payment towards interest. This may well have been what the total interest amount for Ms P's combined April 2020, May 2020, June 2020 and July 2020 payments would have been. And I can to some extent understand why HSBC did this.

However, this served to apportion a much smaller amount of Ms P's payment to the outstanding balance. And I don't think that things were ever readjusted in a way that brought the balance back in line with the initial schedule. I think that this resulted in higher proportion of Ms P's monthly repayment being allocated towards interest rather than reducing the capital going forward.

The position when Ms P asked to settle her loan early in November 2021

As I've explained, the fixed-sum nature of Ms P's loan, which meant that no further interest could be added, meant that the failure to return to the initial amortisation wouldn't have been a problem or cost Ms P more had she repaid her loan in 60 monthly instalments - albeit repaying her final instalment in November 2023. But Ms P asked to settle her loan early in November 2021. And when she did so she was faced with 58 days' worth of interest being added to an unexpectedly larger outstanding capital balance.

HSBC's calculations don't appear to have corrected for this. And while, for reasons I've already explained, I don't agree that Ms P was entitled to an interest rebate of £1,133.64 - her calculations don't take into account amortisation, an effective extension of the term as a result of the pandemic payment deferral and she's failed to take into account that HSBC was entitled to add 58 days' worth of interest to the outstanding balance, I don't think that HSBC's settlement figure is correct either.

I fail to see how an outstanding balance of £7,236.72 on a loan being settled 19 months early (while Ms P might have been looking to settle her loan 22 payments ahead of schedule she deferred three payments as a result of her pandemic payment deferral) was only eligible for an interest rebate of £95.02 when the loan had an APR of 7.9%.

Indeed HSBC's early settlement calculations show that Ms P only had £204.71 of interest to pay in November 2021 despite her still owing £7,236.72, having 24 payments of £301.53 to make and the loan having an APR of 7.9%. I'm afraid that HSBC's numbers simply don't add up here.

Why what Ms P's settlement figure should have been in November 2021 isn't critical to the outcome of her complaint

Ms P didn't pay an increased amount to settle her loan. She declined to do so when told how much HSBC thought she needed to pay to settle her loan in November 2021. Ms P says that she had the funds to settle her loan early and would have done so had she been provided with a correct settlement figure.

However, for reasons I've already explained, Ms P incorrectly believed that her settlement amount should have been some £1,000.00 lower than she was asked to pay. Furthermore, given the circumstances, Ms P's correct settlement figure is likely to have been closer to the amount that she was asked to pay, rather than the amount she believed she had to pay. So I can't reasonably reach the conclusion that Ms P would have settled her loan had she been provided with a correct settlement figure.

In any event, and perhaps even more importantly it's only fair and reasonable for me to ask a respondent firm to compensate a consumer for financial loss that they actually suffered, rather than a loss that they could have but did not end up suffering. Ms P is effectively asking us to place her in the position that she would have been had she settled her loan in November 2021. And I'm satisfied that Ms P would have overpaid to settle her loan had she done so at this stage.

But the fact remains that Ms P didn't settle her loan in November 2021 and therefore didn't overpay – notwithstanding the fact that she may have had the funds at this time. So I'm therefore satisfied that Ms P didn't suffer a financial loss as a result of HSBC's failure to provide her with a correct early settlement figure in November 2021. In these circumstances, I see no value to asking HSBC to retrospectively calculate this amount and I make no direction in regard to this matter.

The service HSBC provided when Ms P asked to settle her loan in November 2021

It isn't in dispute that HSBC didn't provide the best level of service to Ms P in November 2021 and in the period since. But HSBC has already offered to pay Ms P £200 for this. Ms P hasn't accepted HSBC's offer and in truth it isn't entirely clear whether this is because she believes the amount to be insufficient or because of her continued unhappiness at what she was asked to pay to settle her loan in November 2021.

In any event, I've considered whether HSBC's offer of compensation for any distress and inconvenience caused by its actions is fair and reasonable in all the circumstances of Ms P's complaint.

I do accept that Ms P has experienced an amount of frustration and annoyance as a result of HSBC's actions. I also understand why the number of errors Ms P has referred to would have been upsetting and that the impact on Ms P was more than just minimal.

However, I do think that £200 does adequately reflect the gravity of what has happened. Indeed, given Ms P's starting point for determining how much she should have to pay to settle her loan was based on a misunderstanding of the regulations and how loan payments are treated, I think that she's, in any event, likely to have been unhappy at a correctly calculated early settlement figure.

Most importantly, the amount that HSBC has agreed to pay for any distress and inconvenience caused by its actions is in line with the type of award I would make, in circumstances where I were to have upheld the complaint along these lines.

So overall, I'm satisfied that the £200 already offered is an adequate amount of compensation for the distress and inconvenience Ms P experienced here – although I do appreciate that Ms P doesn't agree that this is the case. I'm therefore satisfied that what HSBC has already offered to do to put things right for Ms P is fair and reasonable in all the circumstances of her complaint and I leave it up to her to decide whether she wishes to accept HSBC's offer.

I appreciate that this will be very disappointing for Ms P – as she clearly feels strongly about this matter. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to – particularly as she has now had an explanation of how her early settlement amount should have been calculated at the time.

My final decision

For the reasons I've explained, I'm satisfied that what HSBC has already offered to do to put things right for Ms P is fair and reasonable in the circumstances and I'm not requiring it to do anything more or anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 20 September 2023.

Jeshen Narayanan
Ombudsman