

The complaint

Mr W complains that HSBC UK Bank Plc (HSBC) didn't send him a letter, about persistent debt on his credit card, by email as was his stated preference.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

I know it will disappoint Mr W, but I agree with the investigator's opinion. I'll explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr W told HSBC that he preferred communication by email, but they sent an important letter detailing his options to reduce his persistent debt, by letter instead.

The Financial Conduct Authority's Consumer Credit Sourcebook (CONC) at 6.7.31R sets out the business' obligation to write to a consumer when they have been in persistent debt on their credit card account for 36 months. The method of communication is not stipulated in this rule, but I think it's fair to say that the obligation in 6.7.27R (4) (which relates to correspondence sent when the consumer has been in persistent debt for 18 months) would apply here as well. That being that:

"a firm must, in an appropriate medium (taking into account any preferences expressed by the customer about the medium of communication between the firm and the customer) and in plain language...notify the customer..."

Mr W says that he didn't receive the 36-month letter and that if he did he would have paid more towards his balance and have entered into a plan to pay down the debt. I think it would have been fairer for HSBC to have complied with Mr W's communication preference and to have sent him an email about his 36 month persistent debt, instead of a letter. I can't see that there is a requirement to send that notice in writing although I understand, given the implications of the notice that the business' preference may have been to do so.

I've thought about the impact that had on Mr W. He says he didn't receive the letter, but I can see it was sent to the address we have on file for him, and I think it's more likely than not that it would have been delivered. Mr W doesn't dispute receiving an email from HSBC in June 2022 when his

account had been in persistent debt for 27 months. That email explained that if his account stayed in persistent debt, and if he didn't choose one of the options they would give him to pay back the debt, the card may be suspended. That action was in line with rule 6.7.31R (4) of CONC that says:

"if the firm does not receive a response to the request under paragraph (3) in the time specified, the firm will suspend or cancel the use of the credit card or retail revolving credit facility."

So, as I think Mr W was on notice that a further persistent debt letter would be issued and that he would need to take some further action, above and beyond increasing his direct debit payment if that wasn't enough to get the account out of persistent debt. I don't think he was inconvenienced to any great extent, even if he didn't receive the 36-month notification.

It seems that HSBC are still prepared to offer a pay down plan if Mr W wants one. But I don't think they need to reinstate the credit facility as the CONC rules support their action to suspend it.

I don't, therefore, think it would be fair to ask HSBC to take any further action.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 April 2024.

Phillip McMahon
Ombudsman