

The complaint

Mr H complains that HSBC UK Bank Plc (HSBC) reported incorrect credit information on his credit file.

What happened

Mr H says that in July 2023 he realised HSBC were reporting incorrect information on his credit file. Mr H said his credit file showed that a loan and current account he had with them were still active, despite them being settled as part of a bankruptcy in 2018.

Mr H said he's been refused credit at competitive rates which may have been a result of this.

In August 2023 HSBC issue their final response to Mr H's complaint, which they didn't uphold. In it, HSBC said the reporting to his credit file was correct, and that the accounts were showing as settled/ closed. They said it was right that it would remain there for six years.

Unhappy with their response, Mr H brought his complaint to our service for investigation.

HSBC informed our investigator that they hadn't received a notice of discharge after Mr H's accounts were reported as being bankrupt, which is typical after 12 months. However, they acknowledge this may not have been explained to Mr H in their contact with him, so offered to compensate him £100 and to add the notice of discharge from 1 May 2019.

Our investigator wrote to Mr H to say that he felt the offer from HSBC was fair in the circumstances. However, Mr H declined the offer. He said he was still unhappy with how HSBC handled his complaint, and wanted to understand why the bankruptcy service hadn't issued the notice of discharge. Mr H said he was concerned with the impact this situation has had on his credit file and wanted to know what processes HSBC were putting in place to prevent situations like this recurring.

The investigator issued their opinion in November 2023. In it the investigator concluded that HSBC had acted fairly in the circumstances.

Mr H didn't accept the investigator's view and so asked that his complaint be referred 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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

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.

The Information Commissioner's Office (ICO) Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies, says:

'Lenders that supply data to the Credit Reference Agencies (CRAs) are required to ensure that the data is accurate, up to date and meets agreed quality standards'

In their guidance, the ICO also says:

'Data protection law requires that the information on your credit file is an accurate reflection of your credit history. While we appreciate you may want this debt removed, the fact that this debt was accrued and defaulted on is accurate. The fact that this default remains on your credit file is likely to comply with data protection requirements'

In consideration of the rules and guidance I'm satisfied that HSBC were acting fairly by reporting the default information to the relevant CRAs as it was an accurate reflection of Mr H's credit status with them.

Following the investigator's view, Mr H made further submissions to clarify and support his complaint. As a summary I've considered Mr H's main concerns as the following:

- (1) HSBC handled his complaints poorly
- (2) HSBC has inadequate systems in place in relation to bankruptcies
- (3) HSBC failed to inform him of the status of his accounts despite the defaults being applied

complaint handling

Mr H raised concerns about the way HSBC have handled the complaint against them. Complaint handling isn't a regulated activity in its own right. Nor is it one of the specified non-regulated activities that I'm able to deal with under our compulsory jurisdiction (DISP Rule 2.3.1R). And so, I'm unable to look into the specifics of this.

My focus in this decision is on the underlying financial service being complained about, which is, in the main, the accuracy and fairness in HSBC's reporting of Mr H's credit information to CRAs and its resultant impact on his credit file.

inadequate systems and failure to inform

In his submissions Mr H said he felt the systems in place for HSBC in relation to bankruptcies were inadequate. He felt this resulted in them failing to inform him about the status of his accounts.

I've not seen any information which says that HSBC had any obligation in these circumstances to provide Mr H with regular updates relating to his account status. Particularly as they relate to accounts which were included within a bankruptcy. So, I'm not persuaded HSBC did anything wrong in that regard. Mr H also suggested he had defaults reported each month by HSBC.

HSBC have confirmed that no new defaults were added and that it was the original default being displayed on his credit file each month. Having reviewed the credit report provided by

Mr H, I haven't seen any evidence that a new default was being registered each month, nor has Mr H been able to demonstrate this was happening, so I'm not persuaded this is the case.

The Insolvency Act 1986 (IA) is relevant in this case. The legislation outlines the legal framework for dealing with individuals and companies that are unable to repay their debt. It provides the legal basis for declaring individuals or companies bankrupt.

The IA says:

(1) A bankrupt is discharged from bankruptcy at the end of the period of one year beginning with the date on which the bankruptcy commences.

In addition to this, the ICO says that a bankruptcy may stay on your credit file for six years from the date of the bankruptcy, even if you have been discharged (freed) from bankruptcy.

It also says, *'If your bankruptcy has been discharged, you may need to send the credit reference agencies a certificate of discharge, unless you have paid for the Official Receiver to publicly advertise your discharge.'*

From what Mr H has told the investigator, I think it's this aspect which has caused some significant dissatisfaction for him, because he believes HSBC should have done more as the notification of discharge wasn't received by them.

Although the IA says that a discharge is meant to be issued after one year to the lender, HSBC said they didn't receive it and I've been given no reason to doubt what they've said, so I'm persuaded this hadn't been done. I'm also satisfied in the circumstances that it wasn't HSBC at fault for not receiving the notice of discharge as it doesn't appear they had any involvement in its issuance.

In their final response HSBC have agreed to back date the discharge meaning the bankruptcy will continue to cease after the initial six-year period. I'm satisfied that HSBC's actions here are fair and reasonable.

Mr H has also said he's unhappy with the impact this has had on his credit file. I've thought about this carefully, however, despite there being no conclusive evidence of the specific causes for the credit available to Mr H, as I've found that HSBC have acted fairly in the circumstances, it follows that I don't think HSBC's actions have negatively impacted his credit offerings.

As I've concluded that HSBC has acted fairly in how they've reported Mr H's credit information to the CRAs, I won't be asking HSBC to take an action in relation to this complaint.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances I don't uphold Mr H's complaint about HSBC UK Bank Plc

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 March 2024.

Benjamin John

Ombudsman