

## **The complaint**

Miss M complains that HSBC UK Bank Plc trading as first direct unfairly continued applying charges to her overdraft when she was in financial difficulty.

## **What happened**

Miss M says that her income reduced substantially in January 2022, and she was regularly in her overdraft. She says that HSBC should have realised that the overdraft was no longer affordable and thinks it should refund all interest and charges applied to her account from January 2022.

HSBC issued a final response dated 12 June 2023. It said that Miss M's account was opened in February 2011 with a standard overdraft facility of £500. It noted Miss M had said her income reduced in early 2022 but said it had no reason to contact her following this. It said the overdraft fees didn't meet the required threshold in comparison to her reduced income to consider her being in a position of potentially detrimental repeat usage. It also noted that the first £250 overdraft usage is interest free. HSBC said that it had no evidence that Miss M contacted it to discuss her financial circumstances. It sent Miss M a letter in May 2023 saying that it had started to take action and for her to contact it.

Our investigator didn't uphold this complaint. He said there wasn't evidence that Miss M had informed HSBC about her income reduction or that she was struggling financially. He noted she was using her overdraft but that she did keep bringing her account back into credit suggesting the overdraft was being used for short term debts. Based on this he didn't think HSBC should have been reasonably aware of the issues Miss M was having so he didn't require it to refund Miss M the interest and charges from January 2022.

Miss M didn't agree with our investigator's view. She said that it was HSBC's responsibility to monitor her account and it shouldn't have let her go over her arranged overdraft. She said that HSBC should have recognised that she was in financial difficulty, and she was in her overdraft for a year so it wasn't a short term situation. She said that the overdraft led to her having other financial issues and defaulting on other accounts. She said she was provided with overdraft lending above her monthly income which wasn't fair or responsible.

## **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.

Miss M's complaint is that HSBC continued to provide her with an overdraft following her reduction in income and continued to charge interest and fees when, had it been monitoring her account, she believes it would have realised the overdraft had become unaffordable. She has also said that she was allowed to go over her overdraft limit which shouldn't have happened.

I have looked at Miss M's account statements from June 2021. In the months up to when Miss M has explained her income reduced, I can see that she was spending a reasonable

amount of time each month in credit. She was making use of her overdraft, but often operating within the interest free amount of the first £250. That said, there were several occasions when Miss M exceeded her overdraft limit but she did then bring her account back within the limit.

Miss M said that her income reduced in January 2022. Her statements show that she went over her overdraft limit in April for several days, but aside from that between February 2022 and August 2022 she was operating within the overdraft limit and spending a substantial portion of each month either in credit or in the interest free portion of the overdraft.

From September 2022 to February 2023, Miss M's reliance on her overdraft increased and she exceeded her limit on several occasions. That said, she was still spending time in credit each month and then periods of time in the interest free portion of the overdraft. So, while this could have suggested a pattern of reliance could be emerging, I do not find at this point I have enough to say the overdraft had become hardcore debt or that Miss M wasn't able to repay it within a reasonable period of time.

From March 2023 to May 2023, Miss M didn't have a credit balance and was operating within the charging portion of her overdraft or had exceeded the limit. At this point, I find that HSBC should have been concerned that Miss M was struggling to manage her overdraft and that it might have become unsustainable for her. However, as HSBC had started to send letters around this time asking Miss M to get in touch so her financial circumstances could be assessed, I find it had started to take action in response to Miss M's overdraft usage at that time. As this complaint was raised in April 2023 and the final response issued in June 2023, I find the actions taken to that point were reasonable. Because of this I do not uphold this complaint.

That said, given the concerns Miss M raised in April 2023, we would expect HSBC to work with Miss M to ensure any lending is sustainably affordable for her and to treat her positively and sympathetically in regard to any outstanding balances.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 20 May 2024.

Jane Archer  
**Ombudsman**