

The complaint

Mrs M complains that HSBC UK Bank Plc unfairly defaulted her loan account after she had agreed a payment break.

What happened

In September 2022, Mrs M contacted HSBC to request a payment holiday on her loan due to having a reduced income as she was on maternity leave. It was agreed she could take a six month break until she returned to work. Mrs M says she asked about the process and was told she would be contacted towards the end of the payment break and she would then resume her contractual monthly repayments. Mrs M received default letters in January and February 2023 and says she contacted HSBC but was told to ignore these due to the agreement being in place. In March 2023, Mrs M received a letter saying her account had been closed and defaulted. She says she wasn't told this could happen or that she would need to repay the missed payments as a lump sum, instead she was told she could take the payment break and then resume her usual payments. Mrs M says the default is having a major detrimental effect on her financial options and the stress of this issue has affected her mental health. Mrs M wants her account reinstated so she can resume her repayments and the default removed from her credit file.

HSBC said that Mrs M contacted it in September 2022, and a long term no affordability plan was agreed. It said Mrs M was sent a letter dated 2 October 2022, confirming the plan and what would happen regarding the recovery procedures. It said a default notice was issued dated 5 January 2023 and while Mrs M contacted it on 17 January this wasn't about the default notice that had been issued. As the default notice wasn't satisfied HSBC issued a final demand for the full balance of the loan dated 2 February 2023. As this amount wasn't paid the account closure process started and a default was registered. HSBC said that it had made Mrs M aware of the process regarding her account although it accepted it could have been clearer on the original phone calls.

Our investigator listened to telephone calls between HSBC and Mrs M and thought that Mrs M was provided with unclear and conflicting information. She said that Mrs M appeared to be under the impression the arrangement that had been set up was similar to a payment holiday and that she would be contacted once the six-month period had ended. She noted that there was a discussion about Mrs M's credit file being impacted but the information was unclear, and the adviser said that once the arrears had been cleared the impact on the credit file could be rectified.

Our investigator considered what would have happened had Mrs M been aware when the plan was put in place that her account could be defaulted. She noted that Mrs M had said she would have returned to work sooner and she would then have been able to maintain her loan payments. She noted that Mrs M had confirmed she could make the contractual repayments for the loan going forward. Based on this our investigator upheld Mrs M's complaint as she thought on balance that Mrs M wouldn't have set up the arrangement had she been told her account would go into default. Because of this she recommended that HSBC remove the default from Mrs M's credit file, buy back the loan and allow Mrs M to resume her contractual repayments and arrange a suitable arrangement for the arrears to be

repaid. She also recommended that Mrs M be paid £350 compensation for the distress and inconvenience she had been caused.

HSBC didn't agree with our investigator's view. It said that while it could have been clearer about the next steps of the collections process Mrs M hadn't raised any concerns in response to the letters issued. It said the plan in place had come to an end and Mrs M didn't have the affordability to return to her contractual payments. For these reasons it didn't agree to removing the default.

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.

When making a decision I take all relevant rules and regulations into account, but my decision is based on what I consider fair and reasonable given the unique circumstances of the complaint. Where the evidence is inconclusive, incomplete or contradictory I make my decision based on the balance of probabilities, that is what I consider to most likely have happened given the evidence provided and the wider circumstances of the complaint.

Mrs M took out a personal loan with HSBC with monthly repayments of around £385. Mrs M had taken a payment break during the pandemic and had otherwise maintained her repayments. In September 2022, she contacted HSBC to explain that she was on a reduced income due to being on maternity leave and to ask if she could take a payment break on her loan.

I have listened to the calls from 28 and 29 September 2022. On these Mrs M explains her circumstances and that she has significantly reduced income while on maternity leave meaning she wants a break from her loan repayments but that once she returns to work, she will be able to return to her contractual repayments. She explained that she was up to date with her priority bills and other repayments and that she has around £4,000 in savings to assist her in keeping on top of her bills while on maternity leave. Based on the information given, Mrs M made it clear that she wasn't in financial difficulty at the time but would not be able to make her loan repayments based on her maternity pay and so was looking for a break until she returned to work.

HSBC has said that it doesn't offer the option of a payment holiday on personal loans. An income and expenditure assessment was carried out and it was agreed that a long term no affordability plan would be put in place. On the calls Mrs M is told that the plan will be in place for six months during which she doesn't need to make any payments. She is told that the arrears will continue to accrue on her account and this will be reported to the credit reference agencies, but she is also told that following the six months she can return to her contractual repayments and that once she has cleared the arrears her credit file can be rectified. Mrs M is told she will receive letters, including about her arrears, in line with regulatory requirements but she isn't told that she needs to act in response to these. Instead, Mrs M is told she doesn't need to make any contact with HSBC until the end of the plan and it is also suggested she will be contacted at that point for her contractual repayments to be resumed. Towards the end of the call the adviser mentioned a default notice, but the line wasn't clear and when Mrs M asked what notice was being issued the adviser didn't confirm about a default notice and instead said the letters previously referred to would be sent.

Therefore, having listened to the calls when the arrangement was set up, I do not find that Mrs M was told her account was at risk of default or that any collections process would continue. Instead, she was told she wouldn't need to make payments for the six months and while the arrears would accrue and be noted on her credit file this could be removed once

she repaid the arrears and reinstated her contractual repayments. As Mrs M had intended to return to her contractual repayments at the end of the six months when she returned to work, I accept that based on the information she had received she wasn't concerned or aware that her account might default.

HSBC sent Mrs M a letter dated 2 October 2022, confirming the plan that had been put in place. This confirmed the arrears balance would increase while payments weren't being made which Mrs M had been informed of. The letter also contained information about the normal recovery process and that Mrs M would receive a default notice for the loan account telling her what she needed to do and by when and that if the overdue amount wasn't paid a final demand would be sent and a default could be recorded. While I accept this information was given to Mrs M, as this letter was confirming the plan put in place on the call and on that call she was clearly told that no payments were due in the next six months and any action on her credit file could be rectified after that period, I find on balance, it fair to accept that Mrs M relied on the information in the call and believed her account would accrue arrears but she could then repay this at the end of the plan.

Mrs M was sent a default notice dated 5 January 2023 and a final demand notice dated 2 February 2023. These both refer to Mrs M making lower repayments towards her loan and these not being enough to repay the arrears in a reasonable amount of time. Mrs M has said that she asked HSBC about these letters and was told to ignore them. HSBC has said that Mrs M didn't raise any queries in response to the letters. I have considered this, and while I understand letters were sent to inform Mrs M of the status of her account, as she had a plan in place and had been told that she would receive letters about her arrears but that she didn't need to make any payments for six months after which her credit file could be rectified, I think it unfair that her account was defaulted before that time.

While I find that the incorrect advice given to Mrs M when the plan was put in place meant she didn't realise that she needed to act during the following six months, I have also needed to consider what would likely have happened had Mrs M been given the correct advice.

In this case, when Mrs M set up the plan, she wasn't in long-term financial difficulty but instead was looking for a short term payment break until she returned to work. She had savings available to use to support her over the months she was on maternity leave and has said she could have returned to work sooner had she needed to. Therefore, I find on balance, that had Mrs M been given the correct information when the plan was set up (being that her account could default during the six-month period if she didn't make payments towards this), I think it more likely than not that she wouldn't have set up the plan and instead would have taken alternative steps to maintain her repayments. Because of this, I think the fair outcome is for the default to be removed from Mrs M's credit file and the account reinstated so that Mrs M can return to her contractual repayments. HSBC should also work with Mrs M to set up an affordable repayment plan for the arrears to be cleared.

This issue has caused Mrs M distress and inconvenience. She has explained she was unable to access the financial products she wanted due to the impact on her credit file and that the stress has affected her mental health. Given the circumstances of this complaint, I think that Mrs M should be compensated for the upset she has been caused and I agree with our investigator's recommendation of £350.

Putting things right

HSBC should remove the default from Mrs M's credit file and, if it no longer holds the loan, take this back. Following this HSBC should allow Mrs M to commence her repayments again at the contractual amount and discuss a suitable arrangement for Mrs M to repay the arrears.

HSBC should also pay Mrs M £350.00 for the distress and inconvenience she has been caused.

My final decision

My final decision is that I uphold this complaint. HSBC UK Bank Plc should take the action set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 6 May 2024.

Jane Archer
Ombudsman