



## **The complaint**

Mr A says that HSBC UK Bank Plc ("HSBC") were unreasonable to default his account when he should have been on a payment break that they hadn't applied.

## **What happened**

In October 2023 HSBC agreed a six month payment break with Mr A. The break was due to finish in January 2024, but it was never implemented as HSBC required some additional information from Mr A and they were unable to contact him.

In January 2023 HSBC sent Mr A a default notice that gave him until 6 February 2024 to pay the arrears on his account. As Mr A didn't pay the arrears or agree to a repayment plan HSBC closed the account, demanded payment of the outstanding balance, and registered a default with the Credit Reference Agencies (CRA's).

Mr A was unhappy they'd done that. He referred his complaint to this Service and our investigator thought HSBC had been unreasonable. It was his view that they could have taken other action such as suspending the account rather than defaulting it and he suggested HSBC should reset the loan account to the point the payment break expired and remove the default.

HSBC didn't agree with the investigator's view, and they asked for a decision by an ombudsman. The complaint has, therefore, been referred to me for a 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 HSBC, but I agree with the investigator's view of this complaint. 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.

I'd expect HSBC to treat Mr A fairly and to show forbearance when they became aware he was in difficulties. I think they did that as they agreed to a payment break and offered to set up payment plans to help Mr A to repay the debt he owed them on his loan.

The Information Commissioner's Office (ICO) says when a consumer is at least three months behind with their payments then a default may be registered. And it would expect a default to be registered by the time the consumer is six months behind with their payments.

It wouldn't be fair to register the default much later if there was little chance Mr A was going to be able to repay the debt he owed. To do that would be to unreasonably extend the period the adverse reports on his credit file would impact him and impact his ability to obtain future credit.

So, when a payment break is granted consumers, like Mr A, are given some breathing space in which they don't have to make payments and in which interest isn't applied. But arrears will continue to be reported to the CRA's and the account may still be defaulted: not to do so would mean the impact of those adverse credit file reports was extended. But that was never properly explained to Mr A in writing as the payment break he agreed on the phone was never implemented.

I've thought about whether it was, therefore, fair for HSBC to still register a default in those circumstances. When Mr A agreed the payment break he was only one month in arrears. It was during the period when a payment break should have been applied that the arrears rose to a level where the ICO would suggest the account should be defaulted. But during that period, as the payment break Mr A thought was in place wasn't, he didn't think he needed to make any payments.

HSBC may say that they tried to contact Mr A to discuss the additional information required and I can understand that if, as they say, Mr A was uncontactable they may well have issued a default. But here I think there were other avenues available to HSBC. They've explained that they wanted to reduce Mr A's credit card limit as they say that part of the terms of the payment break were that other lending was reduced. The terms of that credit card agreement allowed them to suspend the credit card account and that would have limited the credit available to Mr A at least until contact could be arranged. So, I don't think it was fair for HSBC not to have implemented the payment holiday and I'm persuaded that without that holiday it was likely Mr A would have made payments to his account as it's clear that he always wanted to avoid it being defaulted.

So, I think HSBC should remove the default and reset the loan account to the point at which the payment break expired, as if the plan was applied.

HSBC made an error here as they failed to implement the payment holiday they agreed with Mr A. They've paid Mr A £200 in compensation for the distress and inconvenience caused and, in the circumstances, I think that's sufficient.

### **My final decision**

For the reasons I've given above, I uphold this complaint and tell HSBC UK Bank Plc to remove the default and reset the loan account to the point at which the payment break expired, as if the plan was applied.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 25 July 2024.

Phillip McMahon  
**Ombudsman**