

The complaint

Mr J complains about the service he received from HSBC UK Bank Plc, following over payments he made towards his personal loan account. He feels they failed to comply with sections 94 and 95 of the Consumer Credit Act (1974) when calculating his ongoing interest.

What happened

Mr J holds a personal loan with HSBC. The loan was taken out in June 2022 for £30,000 at a fixed 5.9% annual percentage rate (APR). The loan required Mr J to make an initial repayment of £435, followed by 83 repayments of £434 to clear the balance. The total amount repayable was £36,517 presuming the loan ran to term.

In June 2023, Mr J made an overpayment of £50, followed by a payment of £500 in July 2023; and then four smaller overpayments in February 2024, totalling £50. Yet, having made these repayments, Mr J felt his statements didn't reflect the correct account balance. He said that while they showed his account balance reducing by the amount repaid, there was nothing to show that any interest rebate was being applied. So, he complained.

HSBC responded and explained that the interest charged would remain the same throughout the life of the account, and that Mr J would be required to continue to maintain his contractual repayments. But, at the point the loan was repaid, HSBC would re-calculate the interest, taking into account any overpayments, and issue any necessary rebate then.

Unsatisfied with HSBC's response, Mr J brought his complaint to our service. He said HSBC had failed to take into account relevant regulations when it came to a partial settlement of a loan agreement. He feels this could impact his credit file and his ability to obtain further credit.

An investigator considered Mr J's complaint but didn't recommend it be upheld. He said he was satisfied HSBC had complied with the terms of the loan agreement, as they set out that Mr J's repayments would remain the same, but that the loan may be repaid faster as the overall cost will usually reduce as a result of the overpayments. And he said that HSBC's decision to calculate any interest rebate at the end of the agreement, complied with those terms. He also thought that HSBC's actions had not fallen foul of section 94 or 95 of the Consumer Credit Act, as there was no requirement for any interest rebate to be paid immediately.

Mr J remained unhappy and said that he felt the regulations were clear on this point. So, the case has now been passed to me, an Ombudsman, to decide.

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.

Mr J's set out his position at length and I'd like to thank him for taking the time to do so. But my findings will concentrate on those matters I consider central to the outcome of this

complaint. So, while I have considered everything, I may not explicitly address each and every point Mr J has made. I trust this won't be taken as a discourtesy, but reflects the informal nature of this service.

I note here that in raising the above issues, Mr J has voiced concerns about many elements of HSBC's practices concerning the overpayments he's made. And while I've considered everything that's happened, it's important to note that some of those concerns have been, or are currently being, addressed as separate complaints with our service. Therefore, my decision will focus only on specific parts of Mr J's complaint, so as to avoid any crossover with the other issues being considered separately.

The key issue for me to address here, as I've interpreted it, is whether or not HSBC treated Mr J fairly in the way they structured his finance agreement following the overpayments he made towards his loan balance. Taking into account specifically, the regulations set out within the Consumer Credit Act; particularly sections 94 and 95.

Mr J's loan was taken out in June 2022 with an opening balance of £36,517. This included both the principal balance and the interest that was due under the agreement. Mr J, as required, paid his initial repayment of £435, and then continued to maintain monthly repayments of £434, as set out within his contract. This continued up until and including June and July of 2023, where, as well as making his contractual repayment, he also made overpayments of £50 and £500 respectively.

In the months prior to Mr J's overpayments, I can see that with each contractual repayment he made, his account balance would reduce by that same amount each month. For instance, in April 2023, Mr J paid £434.73, and his balance reduced from £33,039.48 to 32,604.75, the difference between the two amounts being the same as the repayment made.

When Mr J made his first overpayment in June 2023 of £50, I can see that in the same way as the previous months, his account balance also reduced by £50. The same then happened when he paid £500 in July 2023; and again, with his further overpayments in February of 2024. So I've looked at sections 94 & 95 of the Consumer Credit Act, as highlighted by Mr J, as he feels the regulations set out that as well as his balance reducing by the amount he repaid, there should be a further reduction to reflect any interest rebate due as a result of the partial settlement.

Having looked at section 94, it states the following:

"94 Right to complete payments ahead of time.

(1) The debtor under a regulated consumer credit agreement is entitled at any time, by notice to the creditor and the payment to the creditor of all amounts payable by the debtor to him under the agreement [F1] and any amount which the creditor claims under section 95A(2)] [F2 or section 95B(2)] (less any rebate allowable under section 95), to discharge the debtor's indebtedness under the agreement.

(2) A notice under subsection (1) may embody the exercise by the debtor of any option to purchase goods conferred on him by the agreement, and deal with any other matter arising on, or in relation to, the termination of the agreement.

[F3](3) The debtor under a regulated consumer credit agreement, other than an agreement secured on land, is entitled at any time to discharge part of his indebtedness by taking the steps in subsection (4).

(4) The steps referred to in subsection (3) are as follows—

(a) he provides notice to the creditor,

(b) he pays to the creditor some of the amount payable by him to the creditor under the agreement before the time fixed by the agreement, and

(c) he makes the payment—

(i) before the end of the period of 28 days beginning with the day following that on which notice under paragraph (a) was received by the creditor, or

(ii) on or before any later date specified in the notice.

(5) Where a debtor takes the steps in subsection (4) his indebtedness shall be discharged by an amount equal to the sum of the amount paid and any rebate allowable under section 95 less any amount which the creditor claims under section 95A(2) [F4 or section 95B(2)].

(6) A notice—

(a) under subsection (1), other than a notice relating to a regulated consumer credit agreement secured on land, or

(b) under subsection (4)(a),

need not be in writing.]”

As I understand it, the above sets out (but does not limit to), that the debtor (in this case Mr J), may discharge either all, or part, of his indebtedness under the agreement, by notifying the creditor (in this case HSBC) of his intention to do so. And, by then making the relevant payment, be that either a partial or full settlement of the account.

The rules state that as a result, Mr J's indebtedness will be discharged by both the amount he has repaid, and any rebate allowed under section 95 (this section relates to charges due under that agreement, in this case, namely, the interest).

I can see why Mr J feels that at the time of making his overpayments, no interest rebate had been considered, given that his balance only reduced by the amount of the overpayments made. But while the regulations set out that Mr J's indebtedness shall be discharged by an amount equal to the sum of the amount paid and any rebate allowable, those rules are quite broad. And nowhere within those regulations, does it state at what point in the agreement Mr J's account balance would need to reflect any rebate due. So, I've gone on to look at the specific terms of the agreement, and what HSBC have told us.

The loan terms state:

“Can you repay the loan early?”

8. You can repay all, or part, of the loan early by giving us notice in writing or by telephone. If you give us notice, we will tell you the amount needed to repay the loan in full within the next 28 days (or on a later date you tell us).
9. If you repay part of the loan early, your monthly repayment will stay the same but you may repay the loan more quickly”

HSBC have also said in their response to Mr J that:

“To explain, at the beginning of the loan agreement, interest you will pay over the full term of your loan is calculated and added to your loan balance. We calculate interest this way in order to provide you with a set repayment amount, this ensures at the end of the loan term, all interest and capital is repaid. If you choose to make overpayments throughout the course of the loan, the interest stays the same until the loan has been repaid.”

In this case, following Mr J’s overpayments, his balance did reduce, and his monthly repayments did stay the same, as set out within the terms of the agreement.

I can also see that HSBC have set out that:

“Once the loan has been repaid, we will recalculate the interest taking into account any overpayments and issue any necessary refunds. I hope this explains your query sufficiently.”

From what’s been said, it seems clear to me that HSBC are not in any way avoiding applying a rebate to Mr J’s account. To the contrary, they have set out specifically when they intend to do so, which is at the end of the agreement. And given that the regulations Mr J has pointed towards are broad, and don’t set out exactly when any rebate applicable should be applied, I can’t reasonably conclude that there’s anything inherently unfair in the way HSBC have chosen to manage Mr J’s account, following the overpayments he has made.

Also, given that Mr J’s account balance was reducing by the amounts he repaid, and it was just the further amounts of potential interest rebates due that were not reflected in his account balance, I think it’s unlikely, and I’ve seen no evidence to persuade me, that this would have had a material impact on Mr J’s ability to obtain further credit as a result.

So, while I appreciate this may come as a disappointment to Mr J, and I know it’s not the answer he was hoping for, for the reasons set out above, I don’t think Mr J has been treated unfairly by HSBC. Therefore, I make no award against them in respect of the complaint he has raised. If, however, when Mr J’s loan comes to an end, and, following any rebate he receives he feels that the amount he has repaid is incorrect, then he can raise any concerns with HSBC at this point.

My final decision

My final decision is that I do not uphold Mr J’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr J to accept or reject my decision before 27 February 2025.

Brad McIlquham
Ombudsman