

## **complaint**

Mr S complains about the way that HSBC Bank plc has dealt with him in his capacity as guarantor for a company debt. He's particularly unhappy that HSBC won't re-open the company account and reinstate the overdraft. He'd like us to order the bank to do that.

## **background**

HSBC closed the company's account when its overdraft wasn't cleared in response to a final demand from the bank. HSBC asked Mr S to pay the outstanding overdraft debt under the terms of the personal guarantee he'd given the bank. And, because the balance owed to the bank wasn't paid, a default was placed on his credit file.

Mr S visited one of the bank's branches to discuss the situation. As a result, HSBC reopened the company account – but it didn't reinstate the overdrawn balance. Mr S didn't hear anything further until he received a letter from HSBC telling him that the account had been sold to a debt collection company. And, later on, he learned the account had gone to another debt collection business.

When Mr S complained to HSBC, the bank said it had acted correctly when it cancelled the company's business account. And it had correctly passed the account to a debt collection company when Mr S hadn't made full repayment in response to the demand HSBC sent him as personal guarantor. It said it had already told him that it couldn't open a new business account for the company due to the bad debt owing and inactivity on the account. And the branch shouldn't have re-opened the account. It said feedback would be given to the branch about this.

HSBC acknowledged that the debt collection company managing the account had mistakenly put action on hold due to an administration error. It apologised that Mr S hadn't been contacted again until the account was passed on to external agents. But it said that although the account records showed a credit, this related to the transfer of the account. And Mr S knew the overdraft debt was still outstanding.

It said it was willing to let the company account stay open to enable debt owed to the company to be collected. But didn't uphold Mr S's complaint overall as the debt was still outstanding. HSBC asked Mr S to get in touch with the company now collecting the debt to agree payment proposals to clear the balance he owed under his personal guarantee.

Some time later, HSBC sent another letter confirming what it had already told Mr S. It said there'd been shortcomings in the way the bank had dealt with the matter. Mr S had been given some wrong information. The account shouldn't have been re-opened. And, when it was, the outstanding debt hadn't been added to the account when it should have been. HSBC offered Mr S £100 compensation.

Mr S was unhappy with this response and asked us to look into his complaint. Our adjudicator agreed that HSBC made some errors in the handling of the company account. In light of this, she suggested HSBC increase its compensation offer to £200. It agreed to do this.

Mr S feels, since the adjudicator has found in his favour and agrees HSBC made errors after it first closed the account, he's entitled to an appropriate remedy. And he believes this means we should also tell HSBC to reopen the account (as it's now closed again), recall it in house and reinstate the debt. So the complaint has been referred to me.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. And I've come to the same conclusions as our adjudicator. Here are my reasons for saying this.

Although I can completely understand Mr S's frustration at what's happened, my role is to look at whether HSBC has acted fairly and reasonably overall. I don't propose to respond to every point Mr S has mentioned, because it doesn't change the outcome. I've concentrated on dealing with things that make a difference to my decision.

I find that HSBC was entitled to take the steps it did when it called in the overdraft on the company account, when it then closed the account and when it looked to Mr S to honour the guarantee he'd signed. Those actions were all allowed under the bank's terms and conditions – and it appears to me the bank acted fairly and reasonably when carrying out those steps.

Mr S says that it's what happened after this that's central to the matters in issue. And I agree that the bank hasn't handled matters as well as it could have done. I think HSBC has correctly identified the failings there've been. I agree it shouldn't have re-opened the account. But, given that's what happened, the overdrawn balance should've been reinstated. The debt collection agency didn't pursue Mr S for payment when it should've done. And HSBC's initial final response didn't adequately address the impact of these errors. Also, it said the account would remain open - when that wasn't the correct procedure. So I need to decide what it should now do to put matters right.

Taking everything into account, I think HSBC should pay Mr S more than it originally offered. I feel £200 is a fair compensation payment in these circumstances. I don't feel it would be right to require the bank to reopen the account again as Mr S would like – that's contrary to the bank's procedure in this situation. And he's known for some time that the branch incorrectly re-opened the account when it shouldn't have done. So I can't say the bank is acting wrongly, unfairly or unreasonably in declining to do this again. And, in these particular circumstances, I believe it's fair to say it's a commercial judgement for HSBC to decide how to manage the outstanding debt Mr S has guaranteed.

## **my final decision**

My decision is that HSBC Bank plc should pay Mr S £200 compensation in total as it has offered to do.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 7 August 2015.

Susan Webb  
**ombudsman**