

## **complaint**

Mr and Mrs V complain that HSBC Bank Plc unfairly applied charges to their joint current account at a time when they were experiencing financial difficulties. They seek a refund of the charges.

## **background**

Some years ago, Mr V lost his job and he and Mrs V experienced financial difficulties. Their joint current account was in continual debit balance and they regularly exceeded their overdraft limit. HSBC applied charges for these unarranged overdrafts. They told HSBC of their difficulties and sought assistance but this was declined by the bank. After more than a year, the bank started reversing direct debits, which reduced their charges. The bank closed the account a year later, and Mr and Mrs V have since repaid the borrowing. They now seek a refund of the charges which they think were unfairly applied.

The adjudicator recommended that the complaint be upheld. She thought that the bank could have done more, and earlier, to help Mr and Mrs V. She recommended that the bank refund them £2,170, the account charges incurred from when Mr and Mrs V notified the bank of their difficulties until it acted to stop their direct debits.

The bank disagreed with this recommendation. It said that the charges were applied fairly according to the account's terms and conditions. It said that it was Mr and Mrs V's responsibility to manage their account and ensure that funds were available to cover their outgoings. It thought that refunding charges was absolving them of any responsibility. It had no record of Mr and Mrs V contacting it about their difficulties.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

When it is notified that a customer is in financial difficulties, a bank should respond positively and sympathetically. It may offer a breathing space by freezing interest or charges for a time, refer the customers to debt management organisations, or take other action to assist the customers. In the case of Mr and Mrs V, there is clear evidence that they notified HSBC of their financial position when Mr V lost his job. Also, their account statements showed that they relied heavily on their overdraft, and frequently went over the limit, which can indicate financial hardship. While the bank may not be expected to closely monitor every customer's account, it should be aware of warning signs and consider how to assist the customer. In this case, it took over a year for the bank to act to reverse the direct debits and thus reduce charges for unauthorised overdrafts.

I am not compelled by the bank's argument that it was up to the customers to manage their account. Mr and Mrs V sought help to manage their account and have subsequently repaid the balance, with assistance from a debt management organisation. I am satisfied that Mr and Mrs V did notify the bank of their difficulties and that the bank should have done more to monitor their account and help them avoid charges. It should have acted sooner than it did to reverse their direct debits. For these reasons, I agree with the adjudicator's recommendation that the bank should refund £2,170 charges incurred during the period when it could have acted to assist Mr and Mrs V.

**my final decision**

My decision is that I uphold this complaint. I order HSBC Bank Plc to pay Mr and Mrs V £2,170 in refund of charges incurred.

Phillip Berechree  
**ombudsman**