

complaint

Mr and Mrs K complain that HSBC Bank plc wrongly charged monthly direct debits for their business credit card to their business current account – causing an unauthorised overdraft which they are now being required to repay. They want the bank to write off the debt.

background

Mr and Mrs K opened a business current account and business credit card account with HSBC in 2008. The terms and conditions of the credit card account said that minimum monthly payments would be taken by direct debit from the business current account. The business current account terms and conditions said that the bank could allow debits to that account, even if an overdraft was created as a result.

In May 2012 Mr K contacted HSBC and asked it to cancel all the direct debits on the business current account. The records made by HSBC at that time say that he was told that this would be done except for the credit card direct debit, which had to continue.

Monthly minimum repayments on the business credit card were subsequently taken by direct debit from the business current account. There was no credit balance to meet those direct debits, and an overdraft was created, on which HSBC charged fees and interest. After several months the bank debited the full remaining credit card debt to the current account. As Mr and Mrs K did not repay the resultant overdraft, it transferred the account to a debt collection agency.

Mr K says that the bank was wrong to continue the direct debits after it was told to stop all direct debits on the current account. He also says the bank did not have the power to create an overdraft on the current account.

HSBC has already refunded essentially all of the fees and interest on the current account caused by the credit card direct debits. It has also paid Mr and Mrs K compensation for its initial poor handling of their complaint.

Our adjudicator did not recommend that this complaint should be upheld. He concluded, in summary, that the bank had the right to continue to charge the direct debits to the current account and create an unauthorised overdraft.

Mr K does not accept the adjudicator's conclusions. He says, in summary, that the current account and credit card were two separate products, and that he will repay the credit card debt if the current account is re-opened and the unauthorised overdraft removed.

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 the business current account and business credit card account were opened, the relevant application forms were signed. This means that the terms and conditions of those products were accepted by Mr and Mrs K. Those terms and conditions made clear that there was a link between the two products, because the monthly repayments on the credit card had to be paid from the current account, and that the bank had the right to create an

unauthorised overdraft on the account if it considered it appropriate to do so. I therefore find that HSBC has acted within the terms and conditions of the two products.

HSBC has recognised that Mr and Mrs K have had financial difficulties, and I consider its response to these, in refunding essentially all of the fees and interest on the unauthorised overdraft, as fair and reasonable in the circumstances. I am satisfied that it has met its obligations to treat customers in financial difficulties in a positive and sympathetic manner.

Ultimately, whether the debt sits on the current account or the credit card makes no difference to the situation, because the overdraft fees and interest have been refunded. Mr K says that he will deal with the debt if it is put back on the credit card, but the bank has closed the credit card account by transferring the debt to the current account, which it was entitled to do under its terms and conditions. I therefore consider it fair and reasonable for HSBC, or its collection agents, to require the resulting overdraft to be repaid by Mr and Mrs K.

my final decision

My decision is that I do not uphold this complaint.

Malcolm Rogers
ombudsman