

complaint

Mrs E complains about charges and interest incurred on her current and credit card accounts with HSBC Bank plc. She says that she is in financial difficulty and wants the bank to refund charges and interest and freeze interest on her accounts. Mrs E is assisted in bringing her complaint by her son, Mr E.

background

Mrs E has a current account and credit card account with the bank. She has incurred charges and interest on both accounts. Mrs E says that she is in financial difficulty and wants the bank to do more to assist her.

The adjudicator said that the bank's offer to refund an additional £482.29 to Mrs E's credit card account was fair and reasonable. She said, in summary,

- A Supreme Court ruling about current account charges meant that charges cannot be challenged because they are unfair or too high.
- The current account charges were made in accordance with the account terms and conditions. Therefore, there are no grounds to direct the bank to refund them.
- Financial difficulties do not necessarily mean that the bank should refund charges. HSBC has already refunded some charges and interest in relation to the current account and need not do any more in relation to that account.
- In relation to the credit card account, the bank had previously refunded charges and interest and offered a further refund of charges and interest of £482.29.
- HSBC has now issued a default notice on the credit card account and interest is currently suspended pending the account being transferred to debt recovery.
- The bank had met its obligations to assist Mrs E.

Mrs E did not accept the adjudicator's view and Mr E responded to say that:

- The bank's offer is insufficient as Mrs E would like a refund of interest and charges from the dates the accounts were first opened.
- Mrs E does not want her credit card account to be passed to debt recovery.
- The limit on the credit card was increased substantially which made it difficult for Mrs E to manage the debt.
- Mrs E would like some or all of the credit card debt written off.
- Mrs E wants interest on her current account frozen.

my findings

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

Bank charges like the ones complained of here, have been considered by the Supreme Court which ruled (in 2009) that they were not 'penalties' and the amounts of the charges could not be challenged on the grounds of unfairness. These were technical arguments, but the end result was that there is now no basis for me to be able to conclude that the charges on the current account were too high. I do not find the bank at fault in relation to the current account charges.

Charges incurred on credit cards are slightly different as they occur when there is an act of default, such as missing a monthly payment, or where the credit limit is exceeded. These charges should be set to reflect the pre-estimate of the cost to the bank of the defaults. However, the charge can be calculated by reference to a tranche of accounts, and does not have to be personal to Mrs E. In this case, I do not find the bank at fault in relation to the charges on the credit card.

Where there are financial difficulties, a bank must treat the customer sympathetically and positively in relation to any debt that the customer has to the bank. I would expect the bank to consider how it can assist the customer in managing the debt, which in practical terms could include undertaking an analysis of income and outgoings, introducing payment plans for repaying debts or considering ways to reduce or avoid further charges. However, it does not automatically follow that the bank must necessarily refund charges or interest, write off some or all of the debt or freeze interest.

I have considered this matter carefully and I find that the bank acted fairly in relation to Mrs E's claims about financial hardship. It refunded some charges and interest and has now frozen interest on the credit card account. I note that Mrs E does not want her credit card account to be passed to debt recovery but I do not find that the bank is at fault in taking that step as doing so enables it to freeze interest on that account.

The limit on the credit card was increased over a period of time. Mrs E had the use and benefit of that increase and I do not consider that it is appropriate to direct the bank to write off that debt.

In all the circumstances, I agree with the adjudicator that the bank's offer to refund an additional £482.29 to Mrs E's credit card account is fair and reasonable.

my final decision

My decision is that HSBC Bank plc should refund £482.29 to Mrs E's credit card account.

Louise Povey
ombudsman