

complaint

Mrs D complains about the amount of interest charged on her credit card issued by HSBC UK Bank Plc ("HSBC"). She says they should show forbearance and waive or reduce the debt as she's paid more in interest than she's borrowed.

background

Mrs D has a credit card with HSBC. Her credit limit is £11,000 but she's been using all of the available credit and has been in persistent debt, which she says has been caused by poor mental health.

She says she's paid about £40,000 in interest and has clearly paid more in interest than she has toward the debt. She heard about the recent Financial Conduct Authority (FCA) guidance to financial businesses about how they should manage persistent debt. So she contacted HSBC in July 2018 and suggested they should show forbearance and waive the debt whilst compensating her for the damage the high rates of interest have caused to her mental health.

HSBC didn't agree. They said the interest rates had been calculated correctly and in line with the agreed terms and conditions of the account Mrs D held with them. They noted that the advisor Mrs D had spoken to on the phone hadn't been familiar with the new FCA guidance and they apologised and offered a £25 payment to compensate Mrs D for the inconvenience caused.

HSBC subsequently wrote to Mrs D in August and suggested a review of her finances. But Mrs D was not prepared to go through an income and expenditure analysis with them. Towards the end of August HSBC wrote to Mrs D again. They explained that she'd paid back more interest and charges than she had repaid on the amount outstanding in the previous 18 months. They suggested she could increase payments to avoid paying more interest and suggested debt advice services Mrs D could contact. But Mrs D was disappointed they hadn't responded favourably to her complaint. So she referred the complaint to this service.

Our adjudicator reviewed the interest charged to the account in the last six years (as earlier charges were time barred and out of this services jurisdiction). She noted that the interest level had stayed the same and that charges and interest had been applied correctly. So she didn't think HSBC had made any errors or needed to right the debt off.

She explained that the FCA guidance on persistent debt had come in to effect in March 2018 but financial businesses had been given six months to comply. She noted that HSBC had complied as it had written to Mrs D in late August and taken the action the FCA required. They had:

- informed Mrs D that she'd paid more interest than she'd repaid against the debt
- explained that if she paid more against the debt she could avoid interest and pay off the balance sooner
- asked Mrs D to get in touch with them to discuss her financial circumstances
- advise Mrs D of the implications of being in persistent debt for 36 months or more i.e. the card could be suspended
- advised Mrs D about debt management services

So she couldn't say HSBC had done anything wrong but she did explain to Mrs D that it may be helpful for her to contact the bank and initially complete an income and expenditure analysis as this would be the first step in reaching an agreement with HSBC that could really help her financial situation.

But Mrs D still didn't think the bank had done enough. She said it couldn't be morally right to expect her to pay even more interest towards her debt and she explained it would take years to pay it off. She asked for a final decision by an ombudsman.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have a great deal of sympathy for Mrs D and I was sorry to hear about her health problems. I'm afraid I agree with the adjudicator's view on her complaint. I know that will come as a disappointment to her but I hope I'm able to explain why I've come to that decision.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

I have reviewed the interest charged on the account and it appears to have been calculated correctly and in line with the credit card's terms and conditions. So I don't think HSBC have done anything wrong in that regard.

Mrs D's account balance has been close to the credit limit but she has been managing to keep things in control and has, on occasion, made payments above the minimum expected.

In March 2018 the FCA made changes to the Consumer Credit Sourcebook which sets out the obligations of firms engaged in credit related activities. These changes related to persistent debt or in other words, when a consumer has paid more in interest, fees and charges than they've repaid in borrowing over 18 months or more.

The new rules came in to force in March 2018 but the FCA has allowed financial businesses until 1 September 2018 to fully comply. If a consumer is in persistent debt they should:

- tell them they've paid more in interest, charges and fees in the past 18 months than they've paid off of their borrowing
- contact them and explain increasing payments will reduce their cost of borrowing and pay the balance sooner
- encourage customers to contact the firm to discuss their financial circumstances and to see whether the customer could afford to increase payments without an adverse effect on their financial situation
- warn customers about the implications of reaching a position of 36 months in persistent debt, including that their card may be suspended plus any other steps the firm might take and possible implications on the customer's credit file
- provide info on free debt counselling services

I've reviewed the letter HSBC sent Mrs D in late August 2018 and I can see all of these points were covered. So I don't think HSBC were in breach of the FCA guidance on persistent debt management or need to take any further action.

Mrs D may wish to contact HSBC to discuss her financial circumstances further. As the business are now aware of her financial difficulties I would expect them to be sympathetic, supportive and positive towards her situation. But they first need to be given an opportunity to understand Mrs D's income and expenditure.

my final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 29 May 2019.

Phil McMahon
ombudsman