

complaint

Mr W has complained about HSBC UK Bank Plc. Mr W says:

- HSBC failed to complete a current account switch correctly and instead just opened a current account with an overdraft facility.
- HSBC didn't allow him to pay off the outstanding amount on his current account using his credit card.
- HSBC unfairly defaulted his account and reported this to the credit reference agencies.

background

current account switch

When Mr W applied for a HSBC current account in November 2017, he says he asked HSBC to carry out a current account switch. Mr W realised in March 2018 this hadn't been done so he contacted HSBC about this. They advised him that he hadn't selected a current account switch when he applied for the account but agreed to refund the debit interest that had accrued on the overdrawn balance, as a gesture of goodwill.

not being able to pay the overdrawn balance with a credit card

Mr W says when HSBC contacted him about the overdrawn balance on his current account; he attempted to pay it off using his credit card. He says HSBC didn't allow him to do this. HSBC said they didn't recommend Mr W to do this as it would put him into further financial difficulty. They also said as a responsible lender, they wouldn't allow repayment of a debt with a credit card as this would simply transfer the debt from one place to another. Mr W is unhappy with this as he says had he been allowed to use his credit card to pay the overdrawn balance, his account wouldn't have been defaulted, which then showed up on his credit file.

HSBC said they should've carried out an affordability check when Mr W asked to pay off the overdrawn balance using his credit card. So they offered him £100 compensation in recognition of this but Mr W didn't accept.

default applied to Mr W's credit file

Mr W is unhappy HSBC have defaulted his account and reported this to the credit reference agencies. He says this has caused a lot of stress and inconvenience for him.

HSBC say they wrote to Mr W and attempted to call on several occasions to let him know of the outstanding overdrawn amount and that he needed to make some payments to reduce the balance. HSBC say Mr W wasn't engaging with them and often avoided talking to them. So they defaulted his account in October 2018 and passed the debt to a third party. They say this defaulted account will stay on his credit file for six years. Mr W says he has chosen not to pay the outstanding overdraft amount and wants this debt cleared.

HSBC also offered Mr W £50 compensation when Mr W contacted them after receiving his final response letter as he remained unhappy with HSBC's outcome. But Mr W didn't accept this.

Since the complaint has come to our service, HSBC told us Mr W was given incorrect information that if he repaid the outstanding debt then the default would be removed from his credit file. They've confirmed this won't be the case and the default will remain on Mr W's credit file for six years. They offered Mr W £100 compensation in recognition of having misled Mr W about this.

In total, HSBC have offered £250 in compensation, which Mr W hasn't accepted.

Our adjudicator looked at the complaint. In summary, she said:

- having looked at the online application Mr W completed, he hadn't selected the account switching option. So she didn't think HSBC had done anything wrong.
- HSBC had done enough to keep Mr W informed of his account status and had made several attempts to contact Mr W to discuss his account but there were times where Mr W declined to speak to them. Therefore, she felt HSBC defaulted the account in line with their process. So she didn't ask HSBC to remove the default from Mr W's credit file.
- She felt HSBC's explanation that they don't allow repayment of a debt with a credit card was fair and reasonable.
- She agreed it was fair for HSBC to refund the fees and interest applied when Mr W contacted them in June 2018 and agreed the total compensation amount of £250 offered to Mr W by HSBC was fair.

Mr W didn't agree. He said he did select to complete an account switch at the time of his application. He also didn't accept the £250 total compensation offered by HSBC. Mr W also says he wasn't aware HSBC had applied a default on his account and as a result of this, he's now in financial difficulty. So the complaint's been passed to me to decide.

my findings

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

current account switch

Mr W says HSBC failed to complete the current account switch that he asked them to do when he applied for the current account. HSBC have sent me a copy of Mr W's online application. I can see in the section called 'Account switching' Mr W hasn't selected yes to this option. He would've been required to include details of the old bank account that he wanted to switch from. But I can't see this has been done.

HSBC have also sent me a copy of the welcome letter that was sent to Mr W after opening his account. This letter also includes details of how to do a current account switch. It asked Mr W to get in touch with HSBC by phone if he wanted more information on how this could be done. But I can't see that Mr W did get in touch with them about this after the letter had been sent out.

As I can't see any evidence of Mr W instructing HSBC to carry out a current account switch, I don't think HSBC did anything wrong.

not being able to pay the overdrawn balance with a credit card

Mr W says he offered to pay the outstanding overdrawn balance using a credit card he held with a different bank. But HSBC wouldn't allow him to do this as it merely transfers the debt from one account to another and they believe this to be unethical.

I can appreciate Mr W wanted to use a credit card to pay off the overdrawn balance on his current account. But I can understand why HSBC didn't think this was a good idea. I think regardless of whether HSBC carried out an affordability check at the time, it's not unusual for banks to refuse to allow overdraft debts to be repaid using a credit card as that simply moves the debt around. So I don't think HSBC made a mistake by not allowing this, but the bank offered Mr W £100 for not following its usual processes and I think that's fair.

account default and reporting conduct to the credit reference agencies

HSBC defaulted Mr W's account and told the credit reference agencies about this because he made limited payments to the account after opening it and spending money which took him into the overdraft. Mr W doesn't think this was fair and wants the outstanding amount to be written off and the default removed from his credit file. So I've looked at whether HSBC acted fairly.

When HSBC offered Mr W his overdraft facility, they sent him a letter confirming some of the terms of the overdraft. One of the terms clearly explain that Mr W must make regular payments to the account when he was overdrawn and if he didn't, HSBC may contact him to ask for payment.

HSBC have sent me copies of some letters they sent to Mr W letting him know about the outstanding overdrawn amount which I've carefully looked at. I can see the letters make it clear what the outstanding amount was at the time, that Mr W was required to make regular payments and they also asked Mr W to contact HSBC to discuss repayment options. I can see these letters were addressed correctly to Mr W, so I think HSBC did enough to make Mr W aware that he needed to make regular repayments to his overdraft.

I've also looked through HSBC's internal contact notes. I can see on several occasions HSBC tried to call Mr W to discuss the outstanding overdrawn balance. But there were times where Mr W didn't want to provide security details so the call didn't continue and also times where Mr W hung up.

I appreciate Mr W may have felt overwhelmed by the amount of contact he received from HSBC. However, I don't think it was unreasonable for HSBC to attempt to engage with Mr W about the outstanding debt as set out in their initial letter to Mr W when he successfully applied for the overdraft.

I can't see any evidence to show Mr W made regular payments toward the overdrawn balance as set out in the terms - I can see from the current account statements Mr W only made one payment of £100 towards the overdrawn balance in June 2018.

I can understand Mr W's frustration that his account has been defaulted and this is showing on his credit file. But he ran up the debt on the account and didn't pay it back even after HSBC told him he had to and warned him the account could be defaulted if he didn't do so. The bank's records suggest Mr W did speak with them about the debt and he made one payment towards it in June 2018, so I'm satisfied he knew he owed the bank some money and the bank gave him ample chance to pay it back before defaulting the account.

As the overdrawn balance wasn't repaid, HSBC sent Mr W a final demand letter in September 2018. This letter notified Mr W that his details had been passed to three credit reference agencies. It again reiterated the adverse impact this could have on Mr W's ability to obtain any future credit.

Whilst I'm sorry to hear the impact the defaulted account has had on Mr W, for the reasons given above, I can't say HSBC did anything wrong in defaulting the account and reporting this to the credit reference agencies.

Mr W says he wants the outstanding debt cleared. However, I don't think it would be fair to instruct HSBC to do this as Mr W has had use of those funds.

compensation already offered

In terms of the £250 compensation HSBC have offered Mr W, I think this is fair in all the circumstances of the complaint given the upset and frustration Mr W has likely suffered.

my final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 4 August 2019.

Leanne McEvoy
ombudsman