

complaint

Mr A, on behalf of Miss G, complains that HSBC Bank Plc has not treated her sympathetically when she suffered financial difficulty. In particular, she is unhappy that HSBC would not deal with Mr A on her behalf. She wants HSBC to agree to deal with Mr A, refund all charges applied to her account, allow her to repay her overdraft over a period of 12 months, and pay her compensation.

background

Miss G went into an HSBC branch on 24 April 2014 to discuss her accounts, and give authority for Mr A to discuss her financial situation and account on her behalf. But HSBC wrote to Miss G on 30 May 2014 to say it could not accept the authority as the signature did not match the one it held on file. It explained its fee policy and asked Miss G to complete an income and expenditure form and contact its Financial Guidance Team.

Miss G subsequently updated the signature required to give authority for Mr A to act on her behalf, which HSBC accepted. But Mr A says that:

- HSBC has refused to discuss Miss G's case with Mr A;
- HSBC has not been helpful in assisting Miss G in her financial difficulty, and
- The charges applied to Miss G's account are disproportionate.

The adjudicator did not recommend that Miss G's complaint should be upheld. In particular, she found that the charges were not disproportionate. And she said that HSBC had been unable to do more to help Miss G as she had not contacted its Financial Guidance Team as it had requested.

Mr A does not agree with the adjudicator's findings for the reasons previously given. In addition, it says that HSBC should not have allowed Miss G to go overdrawn, and has breached the terms of the Banking Conduct of Business Sourcebook.

my findings

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

Mr A complains that the charges applied to Miss G's account were disproportionately high. However, following a Supreme Court decision in 2009, it is generally not possible to challenge bank charges as being unfair or too high. The charges were applied in accordance with the account's terms and conditions so I do not find that HSBC made an error in applying the charges.

In addition, I do not find that HSBC made an error in allowing payments to go through which meant that Miss G's account went overdrawn. HSBC has said to Miss G that its policy is to allow customers to exceed their overdraft limit in certain circumstances, to avoid returned payments and to avoid the embarrassment of a refused transaction. I find it is fair and reasonable that it exercises its discretion in this way.

Mr A has said that HSBC has not followed the Banking Conduct of Business Sourcebook in terms of how banks should deal with customers in financial difficulty. Banks do have to treat customers in financial difficulties sympathetically and positively and if they become aware of a customer being in financial difficulty then they should contact the customer to discuss the

matter. Under the relevant rules and codes of practice, however, there is no requirement for banks to refund or suspend charges.

From the evidence I have seen, I do not find that HSBC was aware of Miss G's financial difficulties until she went into the branch on 24 April 2014. And I note that Miss G has not contacted HSBC's Financial Guidance Team as it has asked her to do. I agree with the adjudicator that it is appropriate for HSBC to ask Miss G to do this so that it can understand her financial circumstances.

Mr A also says that HSBC has refused to discuss Miss G's situation with it. I note that HSBC did originally refuse to discuss Miss G's accounts with Mr A, as it says that the signature on the authority it was given did not match the signature it held on file. This signature was updated in June 2014, and I have not seen any evidence that HSBC refused to discuss Miss G's accounts with Mr A after that time. So I do not find that HSBC made an error, and I do not require it to do anything further.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss G to accept or reject my decision before 29 January 2015.

Alison Cribbs
ombudsman