

## **complaint**

Mr C complains about the service he has received from HSBC Bank plc over the last few years.

## **background**

Mr C complains about numerous aspects of the service he's received from HSBC from 2008 onwards. I outline the main points here.

Mr C says that in early 2008 his bank manager agreed to provide the financial support he'd requested for his business. But he left the bank before anything was signed and without warning Mr C. HSBC then discovered that it had lost its file for Mr C and had no record of the conversations that had taken place. It wasn't willing to offer Mr C the facilities that he says the manager had promised.

In the summer of 2008 HSBC offered Mr C a loan to consolidate his overdraft and credit card borrowing, and to provide him with further capital. But it made a mistake with the amount of the repayments on the loan agreement. The actual repayments were about £47 higher than shown. HSBC has apologised to Mr C for the mistake. But Mr C says that if he'd realised what the repayments would be, he wouldn't have taken the loan.

Mr C says HSBC reduced his overdraft without his knowledge. And it didn't cancel his credit card when he took out the loan. He subsequently used the card and HSBC refused to close the account.

Mr C set up a joint account with his son to enable him to manage the account while he was ill in 2009. But HSBC issued a credit card to his son without sending one to him. And it agreed to an overdraft on the joint account without Mr C's consent. What's more, he says it refused to allow him a three-month repayment break while he was waiting for an operation.

Mr C says that HSBC's handling of his complaint has been unsatisfactory and it's not responded fully to his points. He's had to deal with a large number of different people at the bank, and has had to explain his situation to each one. He considers that HSBC's treatment of him has had a serious effect on his health.

Our adjudicator recommended that Mr C's complaint should be upheld. She said, in brief, that some parts of Mr C's complaint were about conversations he says he had some years ago with members of HSBC's staff who no longer work for HSBC. So it wasn't possible to get their version of events. She didn't think HSBC had been at fault in the way it had dealt with Mr C's credit card account. She couldn't be sure whether Mr C would have taken the loan if he'd known what the repayments would be. But she thought HSBC should compensate him for the fact that it mis-quoted the monthly payment. And she thought it had caused Mr C distress to know that HSBC had lost his file. She recommended that HSBC pay Mr C £300 to Mr C to reflect the trouble and upset it had caused him.

Neither Mr C nor HSBC is happy with the adjudicator's opinion. Mr C doesn't accept that £300 is enough to compensate him for HSBC's mistakes. He holds HSBC responsible for the fact his business no longer exists.

HSBC says that it apologised to Mr C in 2009 when it realised that it had mis-quoted the loan repayments. It sent him a letter correcting the mistake. And it offered to refund him three

months' extra interest of £141.09. Mr C didn't reply, so no refund was made. And it apologised to Mr C when he complained about the loss of its business file. Mr C didn't indicate at the time that he thought this was unsatisfactory. It has a new business file for Mr C with documents from 2007 onwards. Given the amount of time it took Mr C to complain, it doesn't accept that the loss of the file had a significant impact on Mr C.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusion as the adjudicator.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here) I reach my decision on the balance of probabilities – that is what I consider is most likely to have happened, given the evidence that is available and the wider circumstances.

I can understand Mr C's frustration that the member of staff who he says offered him the facilities he'd asked for left the bank and HSBC has no record of their discussions. But I'm satisfied that no agreement for those facilities was signed. I acknowledge that Mr C says that if he'd been told that HSBC couldn't authorise the facilities he'd asked for, he'd have looked elsewhere for finance. But I can't safely conclude, on the limited evidence available, that any firm commitment was given to him that the facilities would be available. So I'm not convinced that I can reasonably hold HSBC responsible if he didn't look at any alternative options that might have been available.

In the event, HSBC agreed, later that same year, to the consolidation loan. I'm not convinced, on balance, that Mr C would have decided not to take the loan if he'd been aware of this. The loan restructured his overdraft and included more than £7,000 new borrowing. I can understand Mr C's frustration that HSBC got the monthly repayment figure wrong on the loan agreement. But the mistake was corrected within a few months. HSBC apologised to Mr C for the mistake. And it offered to refund the difference between the repayment at the rate printed on the loan agreement and the repayment at the correct rate for three months. I consider this to have been reasonable.

I acknowledge that Mr C says HSBC didn't cancel his credit card after he took out the loan. But I don't consider that this caused him any loss. Some time after the loan was advanced, Mr C started to use the credit card again. HSBC explained that it couldn't close the account, as it was being used. I consider that it was reasonable of HSBC to refuse to close the account while there was an outstanding balance. I accept that there wouldn't have been one if the account had been closed when the loan was advanced. But Mr C had the benefit of the money he subsequently spent using the card. So I consider that it was reasonable of HSBC to require the account to remain open until he paid it back.

It's true that the agreed overdraft on Mr C's account gradually reduced. But this was the basis on which it was granted. And I'm satisfied that this was made clear in the overdraft offer letter sent to Mr C in 2007. So I don't find that HSBC did anything wrong by reducing the limit.

Mr C's expressed concern about the way HSBC handled his financial affairs after he set up the joint account with his son. But the mandate for the account allowed the bank to act on the instructions of either party. So I don't find that HSBC did anything wrong by running the account in line with his son's instructions.

HSBC has no record of discussions with Mr C about the possibility of taking a payment break on his loan while he was waiting for his operation in 2009. But I have no reason to doubt that he approached it about the possibility. Without any record of the conversation, I don't know what HSBC's reasons were for refusing it at the time. But while I'd have expected it to treat Mr C's situation positively and sympathetically, I wouldn't automatically have expected it to agree to a payment holiday. And I can't conclude, from the limited evidence available, that it dealt unfairly with any request from Mr C for a break.

I've commented that I think HSBC's offer to refund £141.09 was reasonable. It didn't make the refund at the time. This may be because Mr C didn't accept it. But even though I think it likely that Mr C would still have taken out the loan if he'd known what the monthly payments would be, it's clear that he's upset about the mistake and was disappointed to find that his payments would be higher than he'd been told. I also agree that some compensation for the loss of Mr C's file is appropriate. It's true that HSBC put together a new file for him. But I can see that the loss of his file will have left Mr C feeling that there may have been evidence on the file that might have helped his complaint. As it is, I'm not convinced that HSBC's actions have caused Mr C any loss. But I think it fair that HSBC should pay him some compensation to reflect the trouble and upset the loss of the file has caused him.

It's clear that Mr C feels very strongly about the way HSBC has handled his affairs. But having considered the situation overall, I consider the £300 compensation recommended by the adjudicator to be fair.

### **my final decision**

My decision is that HSBC Bank plc should pay (not credit) Mr C £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 November 2015.

Juliet Collins  
**ombudsman**