

## **complaint**

Mr N complains that HSBC Bank Plc will not agree a long term repayment plan for his business borrowing.

## **background**

Mr N took an overdraft facility of £7,000 for his business. In 2012 he told HSBC that he had lost a major contract and was not trading. He has not been able to repay the borrowing. He has had a number of discussions with HSBC over the period. At times it has agreed to freeze interest and charges. But it has not been possible to agree a repayment plan. He does not think HSBC has acted fairly.

The investigator did not recommend the complaint be upheld. She said that:

- Any interest and charges have been applied in line with the tariff on the account.
- HSBC had been in regular contact with Mr N over the period. It has refunded over £1,900 of interest and charges.
- Mr N has been allowed a significant breathing space by HSBC.
- It will be necessary for Mr N to discuss his current income and expenditure with HSBC to determine whether a long term plan is now possible.

Mr N did not agree. He said that the charges and interest that have been applied have prevented him clearing the balance on the account. He told HSBC six years ago that he was not able to maintain the account. All he has been offered are short term plans. He thought that this service was designed to deal with a breakdown in communications and we had failed to note the problem.

## **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'd expect HSBC to act positively and sympathetically to deal with the financial difficulties of Mr N. And that it would make any decisions taking into account his full financial circumstances. But that does not mean it has to take any particular action – for example in freeing charges or interest.

Mr N had the benefit of this money and he accepts he remains personally liable for this as he is a sole trader. I've looked carefully at the notes of his contact with HSBC over the past six years and his bank statements. HSBC has collected information about his income and expenditure. There has never been a point where he has shown a clear surplus. And this is the reason why HSBC says it has not agreed any long term plan as it has had no evidence that one would be sustainable.

I note that Mr N said in a recent call with HSBC that it should have issued a default several years ago. That was a possible option but it is held off from doing this and left the account for long periods out of its collections process with a standard overdraft facility on commercial terms. And those terms have meant normal charges and interest. I can see from its case notes that Mr N told HSBC in 2012 and 2013 that he was rebranding his business and had rebuilt it. In 2014 he explained business was slow at certain times of the year but he expected to have substantial funds coming. In 2015 he said he was involved with a company and might possibly go into a contract with it or become an employee which would put him in

a better position. He's noted as saying in the meantime he'd been undertaking freelance work. And HSBC noted on one budget planner that he was putting this income through an account at a different bank. In September 2016 it recorded that Mr N told it the position should improve as he had new contracts lined up. In March 2017 he completed a budget planner which showed no surplus. But he said that the next few months would be the 'wealthiest' ones of the year.

I agree with the investigator that HSBC has provided long periods of breathing space for Mr N. And it has largely kept the borrowing on a commercial basis avoiding collections and then recovery action. It has refunded a significant amount of interest and charges. I think it's likely provided time because this is what Mr N has wanted. I doubt he really wanted a default to be recorded, even if with hindsight he's now said that might have been a better option for him. HSBC has considered short term plans. Mr N has never been able to make any significant progress in reducing the balance, even if I take account of the interest and charges applied.

This service provides informal dispute resolution and we can help mediate complaints. But here we won't be in a position to collect income and expenditure information from Mr N as he wants and then tell HSBC to agree to a long term plan. That's not our role. Mr N might want to take advice from a free debt advice agency to help him and the investigator could provide contact points.

I also won't be able to tell HSBC to freeze interest and charges permanently. I'd expect it to work with Mr N to try and agree a plan. But I suspect that the only way he will be able to resolve things, based on what he says, is if his account passes to the HSBC recoveries team. That may open up further options for HSBC to assist him. But I'm afraid that I am not persuaded that, having taken everything into account, HSBC has acted unfairly.

### **my final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 10 May 2018.

Michael Crewe  
**ombudsman**