

## **complaint**

Mr F and Mr Y complain that HSBC Bank plc forced them to take out a consolidation loan that they could not afford. They ask that HSBC waives the interest on the loan.

## **background**

Mr F and Mr Y took out a business loan and overdraft with HSBC in 2007. They did not maintain payments and in 2010 the loan and overdraft were consolidated into one loan. Mr F and Mr Y say HSBC took away their overdraft, making it difficult to run the business, and reinstated the overdraft after a complaint was made. Mr F and Mr Y say they could not afford the monthly payments for the consolidated loan – which were higher than for the 2007 loan.

As they could not maintain payments, HSBC transferred the account to debt collectors.

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

- Mr F and Mr Y had defaulted on the 2007 loan, so HSBC was entitled to ask for immediate repayment of the loan and the overdraft. It had offered the consolidation loan as an alternative.
- Mr F and Mr Y did not have to accept the consolidation loan – they could have looked for finance elsewhere.
- Proceeds of the consolidation loan were credited to the business current account to clear the overdraft, and it remained almost constantly in credit afterwards.
- HSBC had carried out an assessment of the business's finances.
- The monthly repayments for the consolidation loan were higher than the 2007 loan as it included the overdraft. The interest rate applied was lower than the 2007 loan. The monthly payments had been met for around 18 months, suggesting the loan was affordable when it was taken out.
- HSBC was entitled to take steps to recover the debt – including transferring the account to a debt collection agency once it had issued default notices and final demands. Interest had not been applied to the account after transfer to the debt collection agency.

Mr F and Mr Y did not agree. Mr Y said the loan was not affordable. As they could not get finance from another bank they had no option but to agree to the consolidation loan and defaulted on their other debts to maintain payments to HSBC. He said the overdraft was cleared by a payment from a customer and HSBC added interest to the loan upfront which increased their indebtedness. He says they are being harassed by debt recovery agencies, who are treating the debt as a personal loan rather than a business loan. The stress has increased his ill health.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of

probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I am satisfied that Mr F and Mr Y did not maintain payments on the 2007 loan. So I consider HSBC was entitled to take steps to recover the debt owed. I am satisfied from the evidence that the proceeds of the consolidation loan taken out in early 2010 were used to repay the 2007 loan and around £12,000 was used to repay the overdraft and leave the current account in credit. As Mr F and Mr Y maintained payments on the loan and largely maintained the current account in credit for about 18 months, I am not persuaded the payments were unaffordable when the loan was put in place.

I am not persuaded that HSBC acted unreasonably when it offered the consolidation loan to Mr F and Mr Y in 2010.

From late 2011, Mr F and Mr Y did not maintain payments on the consolidation loan. I am satisfied that HSBC sent final demands and default notices to Mr F and Mr Y about the arrears on the loan account before it passed the account to a debt collection agency. While the proceeds of the original loan and overdraft were used for Mr F and Mr Y's business, the accounts were in their names. So I consider they are liable for the debt. HSBC is entitled to take steps to recover the debt and, while I appreciate how upsetting the circumstances are for Mr F and Mr Y, I do not find it has acted unreasonably in doing so.

### **my final decision**

My decision is that I do not uphold this complaint.

Ruth Stevenson  
**ombudsman**