

## **complaint**

Mr E complains that HSBC Bank Plc won't pay an interest refund directly to him. Instead, it's used it to reduce the outstanding debt on his personal loan.

## **background**

Mr E took out a personal loan with HSBC in 2010 for £9,500. This was to consolidate some existing debts he held. Mr E entered into a debt relief order ("DRO") in 2015 with the help of a debt charity. This meant that HSBC could no longer recover any further payments from him.

HSBC wrote to Mr E in September 2017. It explained that due to an error with his loan statements, it had decided to refund all the interest it had charged on the loan (around £1,300). Mr E got in contact with HSBC to ask how it would repay him the money.

HSBC told him the refund would be applied back onto his loan – and therefore reduce the outstanding balance. Mr E didn't think this was right. He said the effect of his DRO was that the loan had been written off and therefore there should be no loan balance to reduce. He said the money should come directly to him. HSBC explained that the interest had accrued prior to the DRO and because he'd never paid the interest, it was right to refund it back to the loan.

Mr E told HSBC he was in a difficult financial situation and the refund would be very useful to him and his family. Mr E says HSBC initially agreed to try and come to an arrangement with him. But it then changed its mind.

Our investigator didn't think HSBC needed to pay the interest refund directly to Mr E. She said that Mr E had never repaid the whole loan - there was still around £4,000 of the original capital unpaid (excluding the interest that would have been added). She explained that because Mr E hadn't paid off the capital, it meant he'd never paid HSBC any interest. She said for that reason it wasn't fair for him to receive money he'd never paid.

Mr E didn't agree. In summary, he said the debt was written off by the DRO and therefore HSBC's stance was wrong. He said HSBC had refunded him directly for PPI which was mis-sold. Because the PPI was mis-sold prior to him entering the DRO, the loan should be treated in the same way.

The complaint has been passed to me for a final decision.

## **my findings**

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

HSBC agrees it can't and won't pursue Mr E for any further repayment of this loan as a result of the DRO. So I think it's largely irrelevant whether the debt has or hasn't been written off. But even if the debt doesn't exist, it doesn't automatically mean Mr E is entitled to directly receive the £1,300 refund of interest. Having thought about this carefully, I'm sorry to disappoint Mr E, but I don't think he is entitled to it. I'll explain why.

Mr E originally borrowed £9,500 from HSBC. The total amount repayable (including interest) over the whole term of the loan was around £12,500. Before entering into the DRO, Mr E had only repaid around £5,500. So this means he still owed HSBC around £4,000 plus interest.

HSBC says that it decided to refund interest it charged on loans to lots of its customers (not just Mr E). This is because it says it made mistakes in some of the loans statements it sent out. All those interest refunds would have been applied back onto the loans. But if a loan had been fully repaid, then the refund would go back to the customer. This is because there was no loan balance to reduce and the customer would have paid money they didn't have to.

Mr E's situation was different. This is because his loan was never repaid in full. And as I mentioned above, he still owed HSBC some of the original capital before entering into the DRO. This means that although he'd been repaying the loan, he'd not actually paid HSBC any interest yet. Because he'd never paid HSBC any interest, he'd not paid money he didn't have to. So it wouldn't be fair for him to now receive the refund directly. This is because it would place him in a better position than he was entitled to be in.

I understand Mr E is struggling financially and this money would make a significant difference to him and his family. But it wouldn't be fair to ask HSBC to pay Mr E money that he's never lost out on. This is because by doing so it would mean HSBC would lose out financially and Mr E would gain more than he reasonably should.

Mr E says HSBC treated his PPI refund differently. And I agree. But Mr E had actually paid money for PPI when it appears he shouldn't have. So in that situation it was right he received that money back directly (because he'd lost out on that money). The difference here is Mr E never initially paid the money HSBC is refunding, so he hasn't lost anything.

### **my final decision**

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 4 May 2018.

Tero Hiltunen  
**ombudsman**