

## **complaint**

Mr H complains that HSBC Bank Plc unfairly registered a default on his bank account.

## **background**

In September 2014 the overdraft on Mr H's account was removed as Mr H had failed to make credits to his account despite warning letters. Mr H complains that despite making repayments on the account, the account was closed and on 30 March 2015, HSBC registered a default on the account. Mr H has complained this was registered unfairly and he will only repay the debt if the default is removed.

The adjudicator did not recommend the complaint should be upheld. He said HSBC had given Mr H information setting out the circumstances in which the account would be closed and a default registered on Mr H's credit file. The adjudicator said Mr H had not made sufficient payments to prevent the bank taking this action.

Mr H did not agree. He said he has never received a letter from HSBC telling him the deadline to close his account and register the default.

## **my findings**

I've considered all the available evidence and arguments to decide what's 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 appreciate that Mr H says he did not receive any letters informing him about the closure of the account. However, I am satisfied the bank records are accurate and the pre demand and final demand letters were sent in January and February 2015 which set out the time scale. It is not clear why Mr H did not receive those letters, but I do not consider the bank made a mistake as I am satisfied the letters were sent to the address that Mr H had provided.

In any event, I am satisfied Mr H was aware of the date when the account had to be repaid in full or it would be closed as in December 2014 Mr H was told that if the debt was not repaid within the 180 day Collections cycle, the account would be closed. In addition, Mr H telephoned the bank on 13 January 2015, to discuss the pre demand letter. I am satisfied that during that telephone call he asked for the overdraft to be re-instated or to be given a further six months to repay the full amount. Mr H was told this was not possible and Mr H said he would discuss the matter further in branch.

HSBC had a duty to respond to Mr H sympathetically and positively when it became clear he was struggling to repay the debt. I am satisfied it did this as I have seen the records which show a financial assessment was completed on 19 January 2015 which showed Mr H could not afford a repayment plan as his outgoings exceeded his income. At this stage Mr H was again told the implications of not repaying the debt, this included closing the account as it was apparent he was not in a position to make adequate repayments.

I am further satisfied Mr H was aware the default would be registered as he telephoned the bank on 5 March 2015 to offer to pay £20 per month, but was told this was too low a sum to prevent the collections process taking place.

I know it will disappoint Mr H, but I am satisfied the bank acted in accordance with the terms and conditions of the account and gave him notice about the closure of the account and registration of the default.

I am satisfied HSBC did not make an error and the default has been correctly applied to his credit file.

**my final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to Mr H to accept or reject my decision before 11 March 2016.

Charlotte Holland  
**ombudsman**