

## **complaint**

Miss F complains that HSBC Bank Plc should've entered earlier default dates on her credit record.

## **background**

Miss F had an HSBC bank account with an overdraft and she also had an HSBC credit card account. Unfortunately she got into financial difficulties in 2011. But at the beginning of January 2012 she contacted a debt advisory agency to enter a debt management plan (DMP). She tells us that by April 2017 she finished this plan and paid off all her debts. She's now trying to improve her credit rating. HSBC entered her default dates on her credit record as September 2012. But she says she was well into her DMP by then. She would like the default date on her overdraft account to be between 3 to 6 months of it going into arrears in accordance with the Information Commissioners Office (ICO) guidelines. And at one point on her credit file the default date of the credit card was shown as 2 December 2011 so she wants HSBC to put it back to that date. She's also annoyed that HSBC sent her final response letter to an old address.

HSBC said it closed Miss F's bank account and transferred it to debt recovery on 19 September 2012 and did the same for her credit card account on 9 September 2012. So it told the Credit Reference Agencies (CRAs) that both accounts defaulted in September 2012. And as this is an accurate reflection of the history of her accounts it can't change them. But it couldn't explain why one of the CRAs had a default date of December 2011 for her credit card account. It says it didn't report this date so the fault may lie with the individual CRA.

Our investigator didn't recommend Miss F's complaint should be upheld. She explained that a lender has to strike a balance between defaulting an account too early and doing it too late. And when Miss F approached the bank in February 2012 with a DMP proposal she thought it was fair it accepted this and didn't default her account at that stage. And there wasn't a clear breakdown of the relationship between her and the bank then.

Miss F wasn't happy with this assessment particularly as this Service upheld her complaint about a similar matter with another bank. She said she had contacted HSBC many times, was making reduced payments and had a number of returned direct debits. She can't understand why we can't take this into account. It shows that HSBC knew about her financial difficulties. And she's upset HSBC hasn't kept all the information.

## **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 know how disappointed Miss F will be with my decision but I've come to the same conclusion as our investigator for very similar reasons.

I can understand Miss F's annoyance when HSBC sent her final response letter to her old address. But I can't see this has impacted on her ability to bring her complaint to us. Or that she has lost out as a result of the letter doing to the wrong address. So I don't think HSBC should pay any compensation for this mistake.

I can understand why Miss F wants the dates of her defaults recorded earlier than they are, because a default that goes on a credit file earlier comes off that credit file earlier. And she's upset that HSBC was only able to give us limited information from this time. But we don't expect banks to keep information indefinitely. So I can't find that it's at fault for only being able to give us any more information from that time. But I'm satisfied I've enough information to come to a fair and reasonable conclusion.

As our investigator explained, the ICO guidelines say that if a consumer falls into arrears or doesn't keep to the revised terms of an agreement, a default may be recorded to show that the relationship has broken down. This may occur when an account is three months in arrears and normally by the time it's six months in arrears. But these are just guidelines. And if a product operates in a more flexible way such as a current account a bank may record a default at a later date. Sometimes a bank will delay defaulting an account to give its customer time to try and pay off what is owed. And I think that's what happened here.

Miss F tried to sort out her financial problems by entering into a DMP. This proposal was sent to HSBC in February 2012. She says contacted the bank many times about her financial issues. And I agree with her that this is relevant to her relationship with HSBC. I've seen copies of letters she and the debt advisory agency wrote to HSBC at the beginning of 2012. But in those circumstances I think it would've been unfair for the bank to register a default against her while she was communicating with it and trying to sort out her debts.

It seems that in July 2012 HSBC asked Miss F to contact it about her account. When it didn't hear from her as a result of that letter it sent her a final demand in August 2012. And in September 2012 HSBC passed the accounts to its debt collections agency. It registered the defaults at that point. For the reasons I've given I don't think it was wrong to do so.

I know Miss F will be unhappy with my decision because she's pointed out that this Service upheld her complaint about a similar problem she'd with another bank. But I have to look at the individual merits of this complaint against HSBC. I can't take into consideration the merits of another complaint. And for the reasons I've given I don't think HSBC did anything wrong when it said it couldn't backdate the default dates.

### **my final decision**

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 2 August 2018.

Linda Freestone  
**ombudsman**