

complaint

Mr A complains that HSBC Bank Plc did not treat him fairly when it closed his student bank account and required him to repay his overdraft.

background

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

- The terms and conditions for the account were provided when Mr A opened the account and were also available on the HSBC website.
- These said that if the account was overdrawn regular credits should be paid in.
- Mr A had not updated his address details and, as a result, did not respond to letters sent by HSBC in March 2013 until April 2013 and by this time his overdraft limit had been withdrawn.
- Although HSBC acknowledged some issues in Mr A setting up a repayment plan which it has rectified and apologised for, it could not be required to operate an account for Mr A.

Mr A did not agree. He said, in summary, that the terms and conditions were not clear and did not define what regular credits were. He said that he made regular contact with the branch and offered a repayment plan for his overdraft from his holiday job income. He had not been made aware of the implications of being dealt with by the collections department for more than 180 days and that a default had, as a result, been registered and then removed by HSBC.

my provisional findings

After considering all the evidence, I issued a provisional decision on this complaint to Mr A and to HSBC on 24 September 2014 as follows.

Firstly, I agreed with the adjudicator that this service cannot compel HSBC to offer a particular banking service to Mr A. It has made a legitimate commercial decision not to offer him a student account and overdraft and I will not interfere in this.

But, I was concerned at the way Mr A was treated when the withdrawal of his overdraft facility resulted in financial difficulty for him. I would have expected HSBC to treat him positively and sympathetically in these circumstances.

I acknowledged that the terms and conditions of his account say on page 33 Section 4 paragraph 3.9 that if an account is overdrawn regular payments in should be made. Although these detailed terms and conditions were made available to Mr A when he opened the account, I was not persuaded that the implications for him as a student were made clear.

HSBC provided him with an overdraft facility letter for £750 with an expiry date of 6 October 2013. It accepts in a letter to Mr A dated 21 January 2014 that as a student he did not have a regular income but says "*the bank would expect deposits to be made at least on a quarterly basis*".

HSBC did write to Mr A in March 2013 and clearly it was his responsibility to ensure he had access to his letters. But, in its first letter it said that it is expected that money is paid into an overdraft regularly. I tended to agree with Mr A that it is a matter of interpretation as to what is regular given his circumstances. I accepted Mr A's evidence that his intention was to repay the overdraft when he obtained a holiday job as he did.

Mr A clearly spoke to staff at a local branch on several occasions. I drew no distinction between contact he had with the branch and information it provided and any contact from the head office of HSBC. I noted that HSBC acknowledged to Mr A in its letter of 21 January 2014 that “*you were taking the necessary steps to settle the debt and prevent the account being passed to our internal debt recovery services.*”

Mr A paid in two credits to his account in April 2013 and when he next returned home offered to make payments of £200 a month from his earnings. When he visited a branch in September 2013 the branch contacted the collections department again for him. The branch was told that Mr A’s account had been in collections for 165 days and would be passed to a third party after 180 days. But, HSBC acknowledges that “*both the branch and yourself were unclear of the repercussions of such action.*”

The implications were that a default was recorded and Mr A’s account was passed to a debt collector. HSBC has removed the default noting that Mr A was not given the opportunity to repay the full debt before this step was taken.

Despite this action I was not persuaded it treated Mr A positively and sympathetically. In my provisional view I said Mr A had limited options to make repayments to his overdraft during term time. He made nominal payments of £30 in April 2013. He then offered to make payments of £200 a month from August 2013 to October 2013 which he did each month and then with a final payment of £120 in November 2013. I was not satisfied that HSBC’s expectations for earlier repayment were either communicated clearly to Mr A or were reasonable. These expectations resulted, in my view, in a default being unfairly recorded and unnecessary distress being caused to Mr A. The default has been removed, but I provisionally considered HSBC should compensate Mr A with the sum of £100 for the distress caused.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Mr A said that he would agree to the compensation I suggested and that he accepted that I was unable to order HSBC to re-open his account. He mentioned that he was still receiving letters from HSBC indicating that he had an account and he provided an example of one to me. He asked whether I could require HSBC to make the terms and conditions of its student accounts clearer and in particular the expectation that quarterly credits are received to student accounts in overdraft.

HSBC said it did not agree. In summary it did not consider that the compensation was justified as it had removed a correctly recorded default on Mr A’s credit record. It said that this was very significant non monetary compensation, Mr A had not asked for monetary compensation and to order this would be to compensate him twice. It would also not give him the real redress he wanted which was the reinstatement of his account.

I set out in my provisional decision why I considered that the default on Mr A’s account was unfairly recorded and that I did not consider that HSBC had treated him positively and sympathetically. I remain of this view and consider that Mr A should be compensated for the distress this caused him. I do not consider that this compensates him twice. I have already said, and Mr A has accepted, that HSBC will not re-open his account. I am only dealing with Mr A’s complaint and I am not unable to direct that HSBC makes any changes to its

literature not least as this will have no effect on Mr A. I am unclear why HSBC is still writing to him and I suggest that it now stops doing so as he requests.

my final decision

In light of the above my decision is that I uphold this complaint and I order HSBC Bank Plc to pay Mr A £100.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept or reject my decision before 6 January 2015.

Michael Crewe
ombudsman