

## The complaint

Mr M complains HSBC UK Bank Plc have unfairly defaulted his overdraft.

## What happened

In February 2023 Mr M says his account with HSBC became overdrawn. He contacted HSBC, and agreed a repayment plan for six months at £104 a month for his overdraft – it started 1 March 2023 with the last payment due 1 August 2023. Mr M understood he needed to clear the balance at the end of the plan or call them by that time. But he says a few days later HSBC sent him a final demand. Mr M says he called HSBC and was told he could ignore the letter. The bank then defaulted and closed his account around 12 May 2023.

HSBC said they'd followed their collections process, so hadn't done anything wrong in defaulting his account. They also said they were sorry Mr M had been told to ignore the Default Notice and Final Demand letters, and feedback has been given. As an apology for this, they've paid Mr M £100 into his bank account.

Unhappy with this, Mr M asked us to look at things, saying he was hoping to clear the balance by the end of the plan.

One of our Investigators did so but felt overall HSBC had acted correctly in defaulting the account and paying compensation of £100 had put any miscommunication right.

Mr M didn't agree with this. In summary he said:

- While our Investigator said HSBC acted in accordance with the terms and conditions, their staff misadvised him
- He acted on the information given to him on the phone, which was although further letters would be sent, the plan would be honoured
- Staff have given him contradictory information which he's relied on

Mr M asked for this to be considered from a customer point of view as this default has damaged his chances of getting a house in the near future. As Mr M didn't agree with our Investigator, the complaint's been passed to me to decide.

## What I've decided – and why

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

Mr M essentially says HSBC's actions have directly led to the default being applied. So, I need to consider whether I agree with that. If I don't, then I won't be upholding Mr M's complaint. If I do, then this doesn't mean I'd automatically uphold Mr M's complaint – I'd still need to consider whether the situation would be any different if Mr M had been given the correct information.

I've seen a copy of the Default Notice issued on 7 March 2023. This makes it clear the overdrawn balance of £4,349.53 has been outstanding for some time. The letter essentially says Mr M has to repay this full amount by 28 March 2023 – and if he doesn't, then they could (amongst other things) send him a demand to immediately repay the full amount.

The Final Demand was sent on 7 April 2023. This showed Mr M owed £4,245.53, and Mr M was asked to repay the full outstanding balance by 25 April 2023. The letter went on to say if the amount isn't paid, then they may close Mr M's account and record a default.

The terms and conditions of Mr M's account say:

*Overdrafts are meant to be for short-term borrowing. You must make payments at least monthly to reduce what you owe. All overdrafts are repayable 'on demand'. This means that we can ask you to pay the money back straight away.*

So, at face value, HSBC are allowed to ask for immediate repayment of the overdraft, and if that isn't done then they can default the account and close it. HSBC's notes say they did this on 12 May 2023 as Mr M thought.

But, I know Mr M says he was told he could ignore these letters in the calls he had with HSBC. There are two calls he's referenced – 17 March 2023 and 14 April 2023.

I've listened to 17 March 2023 first. In it Mr M is calling because he's received the Default Notice issued on 7 March 2023. And, as he said, he's asked about having a plan in place. HSBC's agent tells him yes he has an arrangement in place for six months. The agent goes on to say Mr M will receive regulatory letters which they're obliged to send to him.

Mr M then reads out a part of the letter which says he's not made contact and points out he has. The agent reiterates he's got a plan in place.

The second call on 14 April 2023 is purely about Mr M's credit card. I'll take this opportunity to explain I've not considered anything to do with the actions HSBC have taken in relation to Mr M's credit card in this complaint.

So, I do agree Mr M is told to ignore the Default Notice issued on 7 March 2023. In the circumstances, I do understand his frustration and disappointment that HSBC then went ahead and recorded a default.

But, as I said earlier, I need to consider whether this means the situation should be any different. As a starting point our service doesn't look to make incorrect information true. So, I can't require HSBC to take back the default purely because Mr M was misadvised on the phone – and, as I've set out, HSBC have technically acted correctly and in line with the terms and conditions.

I also need to consider that Mr M didn't get back in touch with HSBC after receiving the Final Demand letter on 7 April 2023. He suspected something was wrong with the first letter, and got assurance it was fine, but then didn't question the second letter. I understand his point – which is he'd been told two weeks earlier he could ignore the letters. So, I can understand why, but I think it'd have been sensible for him to have done so.

Separately, I also need to think about what would have been different if Mr M had been told on the phone call of 17 March 2023 that he did need to repay the full outstanding balance.

At this time, an income and expenditure form had been gone through. Generally this identifies the maximum amount someone can repay towards a debt while leaving them

enough money for essential bills, food and so on. Mr M's debt was £4,245.53 at the time the account was defaulted. And his payment plan was for £104 a month. In the circumstances, it seems unlikely Mr M was going to be able to repay the outstanding balance within a time the bank would consider acceptable – particularly given, as I mentioned above, overdrafts are usually repayable immediately.

Overall, I do think it's extremely disappointing HSBC told Mr M the wrong information. And I agree £100 compensation for that error is a fair way to put that right. I realise Mr M's future plans have been significantly disrupted by this, but I don't think HSBC have acted unfairly in defaulting Mr M's account and closing it down.

### **My final decision**

For the reasons I've explained above I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 March 2024.

Jon Pearce  
**Ombudsman**