

The complaint

Mr M complains that when his debit card was swallowed by an ATM, HSBC UK Bank Plc didn't tell him his direct debit had been cancelled. He said this should have been explained and restored and his debt should not have been referred to a collection agency.

What happened

On the 20 April 2023, Mr M's debit card was swallowed by an ATM whilst he was abroad. He called HSBC who ordered a new card. In this call HSBC said that the direct debit for a set amount towards Mr M's credit card had bounced. But he said he wasn't told that this had disabled the direct debit, and this isn't what other businesses would do.

Mr M thinks his card was taken because his account was flagged, and services stop when the account has an issue. He said he pays little attention to his HSBC account as he uses other accounts, but always ensures funds are available. He said over the following months HSBC chased him with letters and calls which he always declines as potentially fraudulent. Mr M said he had to speak with HSBC as his one-time passcode was not working correctly, but nothing was mentioned by any agent. He said that he told the agent to restart the direct debit, but HSBC suspended his account and put the debt to a collection agency.

Mr M said his credit rating had been affected hugely and also his business. Mr M said HSBC is always sending text messages about his account, but not about his direct debit. He complained to HSBC and told us it should be penalised as it can't fix this issue. He wants his direct debit restored and once the debt has been paid he will close the credit card.

HSBC responded that in a call on 20 April 2023 Mr M made a credit card payment which included arrears after the direct debit was reversed in March and April due to insufficient funds. HSBC explained that although this brought Mr M's account up to date, the failure of the two previous direct debit payments causes the direct debit itself to be suspended.

HSBC said its Financial Support Team tried to call Mr M on 20 April, and over the following months about payments not being made, *'but as you felt these calls were fraudulent you declined to speak to the agents'*. HSBC said this was also set out in its letters from March to its Final Demand Letter of September 2023. HSBC said Mr M didn't respond and so on 9 October the account was closed, a default registered, and the debt passed to a collection agency. During this time HSBC sent Mr M statements of his current and credit card account. It said its Mr M's responsibility to ensure the account is kept up to date in line with the terms.

Mr M wasn't satisfied with HSBC's response to his complaint and referred it to our service. Our investigator said Mr M feels he should've been told his direct debit to his credit card had been cancelled when he reported its loss. She said HSBC wrote to Mr M to say that as two direct debits had been returned the direct debit would be suspended. And provided copies of other letters before a final demand in September and closing his account in October 2023.

The investigator listened to many calls where Mr M wasn't prepared to complete security due to fraud concerns, and a call in March 2023 when he asked HSBC what the calls were about. HSBC's agent said his direct debit payment bounced twice due to insufficient funds.

Mr M called again on 20 April 2023 to tell HSBC his card had been swallowed. Mr M queried the calls again and HSBC's agent said HSBC hadn't attempted to call him and he should ignore the calls. The agent then transferred Mr M to HSBC's credit card team.

The investigator said HSBC's agent should have checked with credit card colleagues about contacts with Mr M and not doing so limited opportunities to alert him to his credit card debt. She said this didn't change the overall situation as the debt wasn't paid and HSBC followed the correct process in passing on the debt, but HSBC should pay Mr M £75 compensation for the inconvenience caused.

HSBC agreed with the investigator, but Mr M did not. He said the direct debit was cancelled not suspended and he should have been told when HSBC's agent ordered a new credit card and took payment. Mr M said compensation of £75 isn't fair and HSBC should be fined as it will cost a lot to get his credit back to normal. He said he was on a plane on 20 April when HSBC said it tried to call, and it had lied about him declining to take the call. Mr M requested an ombudsman review his complaint.

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 said his credit card was taken because his account was flagged. That is correct as the debt on his card caused HSBC concerns about the account and triggered its suspension of Mr M's credit card account. I have looked carefully at HSBC's actions in respect of Mr M's credit card and its communications with him to see if it acted in accordance with its procedures in these circumstances, and to see if it treated him fairly.

Mr M would like HSBC to pay a financial penalty and remove the default notice to his credit report. I'd like to confirm this service isn't a regulatory body or a Court of Law and doesn't operate as such. Instead, we are an informal, impartial dispute resolution service. And while we do take relevant law and regulation into account when arriving at our decisions, our remit is focussed on determining whether we feel a fair or unfair outcome has occurred – from an impartial perspective, taking all factors and circumstances of a complaint into consideration.

And so I have looked at whether HSBC has made a mistake. When we find that an error has impacted on a consumer we consider an award of compensation. When we make awards we are not looking to fine or punish a business but to find an award that fairly and reasonably compensates the consumer for the wrong that has been done. We will also consider requiring the removal of adverse credit information where we think this has been applied unfairly.

Taking the suspension of Mr M's direct debit first, Mr M said HSBC shouldn't do this when it's their only source to get paid. He said the issue could have been resolved if HSBC's agent had said, 'yes let's carry on with your direct debit payments from the normal day it is taken'.

Mr M said he always ensures funds are available for his HSBC account though it's not his main account and if HSBC hadn't cancelled the direct debit, he would not be here today. However, it's clear HSBC had no alternative but to reverse Mr M's direct debit payments to his credit card for March and April 2023 due to lack of funds. Mr M brought the payments up to date, but HSBC suspended the direct debit because of the previous failures. The direct debit remained suspended until the account was cancelled when Mr M had made no further payments to his credit card or responded to HSBC's communications.

I've looked at the terms and conditions of the credit card account Mr M held with HSBC and these state, 'if you don't make these payments for one month, you'll need to pay the amount you've missed plus the amount due the second month to keep the plan. If you don't pay that amount by the due date in your statement, we'll cancel the plan the next day'.

Although Mr M made a payment in respect of two months to his credit card in April 2023 I think HSBC acted within the terms and conditions of the account in suspending his direct debit. He may have made the payment as he was also reporting that his debit card had been retained at an ATM, although this was unrelated as the direct debit was already suspended.

It was open to Mr M to clear the debt and re-establish the direct debit at any time and HSBC signposted him to financial support if this was needed. HSBC's Financial Support Team tried to speak to Mr M many times, but he didn't want to complete verification and he didn't respond to any of HSBC's letters. Mr M did not deal with the credit card debt and it followed that after sending a Final Demand Notice, HSBC cancelled the card.

I turn to the communications between the parties. Mr M said he called HSBC because his SMS verification PIN would not work on his other card, but he wasn't told his direct debit had been cancelled and he was told that HSBC hadn't tried to contact him. Mr M said HSBC's actions ruined his credit, which has an impact on his business.

I agree with the investigator that Mr M was speaking to a personal account agent who should have referred to her credit card colleagues to gain an accurate picture of contacts, particularly as the latter had attempted to reach Mr M on multiple occasions.

It's clear that Mr M did not want to talk to HSBC during this time. He said this was because he was fearful of attempted fraud. HSBC made a mistake in providing incorrect information about its calls during the phone call on 20 April, and could have said his direct debit was suspended, but this was far from its only attempt to communicate with Mr M.

Mr M received 12 separate letters from HSBC about his credit card debt and about his current account direct debit payment failure. All of these asked him to take action and make contact. He also received credit card and bank account statements that showed the missed payments and the debt and SMS text messages asking him to make contact. Mr M used HSBC's mobile banking app to make other payments and would likely have seen that credit card payments had not been made from his bank account. All of these means of communication started in March 2023 when the first missed payment occurred.

Mr M's credit card statement of March 2023 showed an 'UNPAID DD PAYMENT' and started a sequence of statements showing an 'overdue minimum payment'. In its letter of 20 March 2023 HSBC said, 'Your Direct Debit payment to your HSBC Credit Card has been returned'. **'What happens if the next Direct Debit is returned? We'll temporarily suspend collection of your payments by Direct Debit until your account is back on track. If this happens, you'll need to make payments another way until we start collecting them again by Direct Debit'**.

HSBC's letter of 24 March 2023 stated, 'you have missed one payment to your Credit Card account'. 'If you would like to set up a Direct Debit to ensure that you do not miss your monthly payments then this can be done over the telephone.' And its letter of 18 April 2023, 'The last two Direct Debit payments to your HSBC Credit Card have been returned'. 'You'll need to contact us to arrange to make those payments another way We want to make sure you're able to pay these amounts before we request any further payments by Direct Debit, so we've temporarily suspended collection of your Direct Debit. This means we won't try to collect the payment(s) you've missed, or your monthly payments from now on until we talk to you'.

HSBC wrote to Mr M every month from March to October 2023 advising him of missed payments and urging him to get in touch. HSBC was entitled to issue a Final Demand Notice to Mr M in September 2023 and closed his account the following month when there was no response. This advised Mr M that the account would be passed on to repayment services to arrange the recovery of the balance.

It seems very clear from these letters and other communications that Mr M's direct debit was no longer operative, and he needed to find an alternative means of making payments to his credit card. It's also very clear that HSBC were calling Mr M to talk about his missed

payments. Unfortunately Mr M didn't call and after April 2023, he didn't do anything about his credit card debt.

I don't agree with Mr M that this had anything to do with HSBC. I say this as the evidence shows that HSBC made every effort to engage with him over the months from March 2023 when his first direct debit payment failed, through to October 2023 when it closed his credit card account. HSBC gave Mr M plenty of notice of the missed payments, and every opportunity to bring his credit card account up to date.

Other than the single call when HSBC's agent ought to have told Mr M the bank was trying to contact him, I think HSBC acted according to its policies and in line with best industry practice and has treated Mr M fairly and reasonably. I think £75 compensation is fair for the minor inconvenience caused to Mr M by the call from HSBC.

Our service investigates the merits of complaints on an individual basis. And that is what I've done here. I think it's important to explain that my decision is final. I realise that Mr M will be very disappointed by this outcome though I hope he appreciates the reasons why it had to be this way.

My final decision

For the reasons I have given it is my final decision that the complaint is upheld in part. I require HSBC UK Bank Plc to pay Mr M £75 compensation for the inconvenience he has been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 3 October 2024.

Andrew Fraser
Ombudsman