

## The complaint

Ms I complains about the interest and charges HSBC UK Bank Plc have applied to her overdraft account. She says these charges have caused her to get further into financial difficulty.

## What happened

I previously issued my provisional decision on this case, setting out how I intended to resolve Ms I's complaint. I have copied my provisional decision below, which also forms part of this final decision.

*"Ms I raised a complaint with HSBC in 2023 in relation to the interest and charges applied to her overdraft account over the last six years. Ms I says that over the years she has let HSBC know that she's been in financial difficulty, and they haven't helped her. To put things right, Ms I asked for all interest and charges applied over the last six years to be refunded to her.*

*When the complaint was referred to this service, HSBC said it allowed Ms I to increase her overdraft facility in August 2021, when, upon further review, it felt that further checks on Ms I's circumstances would have revealed a higher dependency on the overdraft facility and a reduced level of income. As a result, HSBC agreed to refund the interest and charges that had been applied to Ms I's overdraft account from August 2021. It also said it would remove or reduce the overdraft.*

*Ms I didn't accept HSBC's offer. She said that she wanted the refund to include interest and charges applied to her account dating back further. And she didn't want the overdraft removed or decreased as this would put her further into financial difficulty as she is reliant on the overdraft facility.*

*An Investigator considered what both parties had said. The Investigator said they hadn't seen any evidence of Ms I letting HSBC know that she was struggling financially until April 2020, at which point, HSBC agreed to not charge interest on the arranged overdraft usage up until £300. The Investigator didn't think that the overdraft usage at this point showed signs of Ms I struggling, and so they felt that HSBC had acted fairly here. The Investigator also felt that HSBC's offer to refund interest and charges from August 2021 was fair and in line with this service's normal approach. Ms I raised concerns about the service she got from HSBC when she was requesting information from it in relation to this complaint, HSBC offered to pay Ms I £100 for this, which again the Investigator felt was a fair offer.*

*After much back and forth following the Investigator's view, it appears Ms I now accepts HSBC's offer of an interest and charges refund. However, she wanted certainty about what level of overdraft she would be left with following resolution of the complaint.*

*Because a resolution couldn't be reached, the complaint has been passed to me to decide on the matter.*

*After reviewing the file on this case, it was my intention to find that HSBC needed to do more to put things right for Ms I. I wrote to HSBC and said the following:*

*“The account appears to have been managed relatively well between Feb 2018 and Feb 2019. After this, Ms I starts to use the overdraft facility more regularly.*

*By June 2019, Ms I was using the overdraft a lot more than she had previously – she remained in her overdraft more often than she was out of it. And when she was out of her overdraft, this was only by a couple of hundred pounds and for short periods of time. And on occasion, going into an unarranged overdraft position.*

*I can see it was agreed to increase Ms I’s overdraft in August 2019 to £1,500. But I don’t currently think this was fair or reasonable. I think by this point, Ms I was already displaying a reliance on the overdraft facility – and had showed that she wasn’t always able to keep within the £1,000 limit she had at the time. I’ve also looked at the income going into Ms I’s account in the months leading up to the increase in her overdraft to £1,500. She had a regular income of around £1,500 a month.*

*In October 2019, the credit limit was increased again to £1,800. By this point, Ms I was consistently in her overdraft. The credit limit exceeded her income. Which resulted in her being trapped in her overdraft and not able to get out of it.*

*Based on what I’ve seen, I think the offer you [HSBC] made to refund interest and charges from August 2021, ought to be backdated to August 2019.”*

*HSBC responded to say that after further review, it had decided to agree to my proposed recommendations as a gesture of goodwill. It also confirmed that if Ms I accepted, then it would look to remove the overdraft facility.*

*An Investigator contacted Ms I to explain the offer. Ms I explained that she hadn’t been using the overdraft facility recently and her account is currently in a credit balance. However, since we took on the complaint, she has been diagnosed with an illness which requires permanent treatment. Ms I added that she can’t live without the overdraft, as she is due to have an operation. The overdraft facility will help her pay rent while she is recovering from her operation. She added that she would be happy for the overdraft to be reduced to £1,000.*

*Because an agreement couldn’t be reached, I have now proceeded to make a provisional decision on the matter.*

#### *What I’ve provisionally 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.*

*I think it’s important to firstly explain I’ve read and taken into account all of the information provided by both parties, in reaching my decision. If I’ve not reflected something that’s been said in this decision it’s not because I didn’t see it, it’s because I didn’t deem it relevant to the crux of the complaint. This isn’t intended as a discourtesy to either party, but merely to reflect my informal role in deciding what a fair and reasonable outcome is. This also means I don’t think it’s necessary to get an answer, or provide my own answer, to every question raised unless it’s relevant to the crux of the complaint.*

*Given that both parties now appear to agree that a refund of interest and charges applied from August 2019 is a fair way to settle the complaint, I won’t cover this point off in too much detail. I have already explained to HSBC why I think this is a fairer way to settle the matter, and it made no comment on any of the points I made about why I felt this was a fair resolution.*

*The outstanding issue now is that of the overdraft facility and its potential removal. I have noted what Ms I has recently told us about her health, and I'm very sorry to hear of this. I can understand why Ms I doesn't want the overdraft to be removed, however I don't think HSBC's intention here is unreasonable. HSBC has a duty to lend responsibly. It is clear from what Ms I has told both HSBC and this service that she is having a very difficult time financially. With this in mind, I wouldn't expect HSBC to provide Ms I with an overdraft that is more than she could sustainably afford to repay. Which means that I don't think it would be unreasonable of HSBC to make the decision to remove or reduce her overdraft facility if it's showing signs of being unaffordable for her.*

*I would however expect HSBC to treat Ms I positively and sympathetically in the circumstances – and it should carry out a review of Ms I's account to see what overdraft she might be able to afford, if any.*

*In relation to Ms I's most recent complaint, about the delay in receiving information, I think the £100 HSBC has already offered is fair and reasonable here."*

HSBC responded to the provisional decision to confirm it had nothing further to add.

Ms I responded to reiterate that she needs a £1000 overdraft to cover her rent and council tax. She added that she has been unwell for two years and she has now received a diagnosis and will be having an operation for the illness next week. Ms I adds that she is now receiving increased disability payments, but still requires the overdraft for the immediate future.

### **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.

I'd firstly like to thank both parties for coming back to me so quickly.

I really am truly sorry to hear of the very difficult circumstances Ms I is currently in. And I can see that she is reliant on the overdraft facility to get her through the coming weeks and months while she is recovering from her operation. I would expect HSBC to take this into consideration when deciding what to do with Ms I's overdraft.

Ultimately, it is up to HSBC to decide what risk it is prepared to take when lending to an individual. This is usually down to its commercial decision making, which this service wouldn't generally get involved in, unless its decision making is unfair.

I think HSBC should take into account the circumstances Ms I is currently in, and how best it might help her. But if it does decide to reduce or remove the overdraft facility, for the reasons I've already explained, I don't think that would be an unfair or unreasonable.

### **Putting things right**

HSBC should put things right for Ms I by doing the below:

- Re-work Ms I's current overdraft balance so that all interest, fees and charges applied to it from August 2019 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made HSBC should contact Ms I to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Ms I's credit file, it should backdate this to August 2019.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Ms I, along with 8% simple interest on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then HSBC should remove any adverse information from Ms I's credit file. †

† HM Revenue & Customs requires HSBC to take off tax from this interest. HSBC must give Ms I a certificate showing how much tax it's taken off if she asks for one

### **My final decision**

For the reasons set out above, I uphold Ms I's complaint. I order HSBC UK Bank Plc to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms I to accept or reject my decision before 29 July 2024.

Sophie Wilkinson  
**Ombudsman**