

## **The complaint**

Mr E complains that HSBC UK Bank Plc has treated him unfairly with his mortgage when he's asked for assistance with his repayments.

## **What happened**

Mr E has a residential mortgage with HSBC which was taken out in 2002. He has said during the lifetime of the mortgage, he has made a number of overpayments, totalling around £9000.

Mr E has recently been experiencing financial difficulties. HSBC initially offered a repayment holiday/payment break and after this, Mr E asked HSBC if he could use his previous overpayments in lieu of his monthly mortgage payments now as he was still experiencing financial difficulty.

HSBC explained it couldn't see all of the overpayments Mr E said he made previously because of how long it retains information for. It couldn't see any overpayments made more than six years ago. It could see around £1000 of overpayments made more recently but if Mr E is not currently working, using these overpayments now would increase the mortgage balance. So it didn't say it would guarantee allowing the mortgage to increase by this amount, as it might not be in Mr E's best interests to allow this to happen.

Our investigator looked at this complaint and explained that she didn't think HSBC had done anything wrong. She didn't think we could consider how any payments had been applied to Mr E's mortgage if these were made more than six years ago. She felt if Mr E was unhappy about how these had been applied, he would have needed to complain about this sooner. It was now too late to bring a complaint. And she didn't think HSBC was acting unfairly when it said it didn't have records of these transactions due to its data retention.

She felt HSBC had acted fairly when replying on the points about his previous overpayments and if he was still experiencing financial difficulty, Mr E needed to speak to HSBC about his options now.

Mr E disagreed with our investigators assessment. He said he wasn't complaining about the payments and how they were applied when made. His complaint is the failure to be able to confirm these were made now and the impact of this. He felt HSBC shouldn't be allowed to delete information which could cause an issue with functionality. And he was losing out as a result of HSBC failing to retain information he feels it should have if it impacts how his account can be operated.

Our investigator said her opinion remained that she didn't think HSBC had done anything wrong with how it was treating Mr E now. She didn't think it was fair to expect it to do anything differently now based on when the payments were made.

Mr E didn't agree and reiterated that his complaint was not about the application of the historical payments to the mortgage, but HSBC's failure to now be able to use these to support him. As a result, the complaint has been passed to me for decision.

## **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've decided not to uphold this complaint. I know Mr E will be disappointed by this, but I'll explain why I don't think HSBC needs to do anything else now, beyond what it has already offered.

Our investigator has said she doesn't believe this Service is able to comment on how any payments to Mr E's mortgage have been applied if these were applied more than six years ago. Mr E has said it is not the application of these payments and what happened previously, but the inability of HSBC to confirm what was paid before. And its refusal to consider any previous overpayments now as a means of assisting Mr E and his current situation. To me this is the crux of this complaint and whether HSBC is treating Mr E fairly when he's asked for help now due to his circumstances changing. So while I agree there are time limits that determine what we can and can't consider, I don't think this has any bearing on the outcome of Mr E's complaint.

When Mr E let HSBC know he had a change in his circumstances and was struggling to meet the monthly repayments for his mortgage, it offered a six-month payment break as a means of forbearance. Once this ended, Mr E asked if the previous over payments could be used now to assist with his mortgage payments. HSBC explained it can only see overpayments made in 2018 and it couldn't see all of the previous overpayments Mr E said he had made. It also said it is only able to consider any previous overpayments made within the last six years.

HSBC has a number of statements for the account going back more than six years, but doesn't have a statement for 2014/2015, when Mr E said he made some substantial overpayments. It's unfortunate this year's statement isn't available, but even if it was, I don't think it means HSBC needs to use any overpayments now to support Mr E with his monthly payments. It has said this isn't something it would do as it only allows any overpayments made within the last six years to be considered.

I appreciate Mr E feels HSBC is treating him unfairly when it has said it won't consider any overpayments made more than six years ago, but I don't think it has been unreasonable when it has said this isn't an option. There is limits to the information available which can mean understanding exactly what happened more than six years ago can be difficult and a policy that allows for this is not something I feel is unfair.

Mr E's mortgage has remained on the same term since its inception in 2002 and any overpayments made previously have reduced the balance with the term end date remaining the same. This has meant the monthly repayment amount will have reduced. If HSBC was to effectively refund any previous overpayments now, allowing these to be used to offset the current monthly repayments, it would need to determine whether this is in Mr E's best interests. This is because the outstanding balance of the mortgage would increase as would the monthly repayments.

Mr E hasn't said his situation has changed or given an indication of when it is likely to. So even if I thought HSBC should be considering any overpayments made more than six years ago, which I don't. I'm not persuaded it has acted unfairly when its said other options should be explored to support Mr E and his situation now. Increasing the balance on the mortgage now by any previous overpayments made would not improve Mr E's situation. Interest would be charged on the total balance and his monthly repayments would increase to make sure mortgage end date remained the same. So I am not persuaded it would be in his best

interests for HSBC to do what he's asked.

HSBC has asked Mr E to get in contact with it directly to discuss what options it has available to support him while he is experiencing financial difficulty. I cannot see Mr E has been in contact since the complaint has been raised. But based on what I've seen, I am not persuaded it has treated Mr E unfairly when it has refused to allow any overpayments made more than six years ago, to be used to now assist with his monthly repayments.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 1 February 2024.

Thomas Brissenden  
**Ombudsman**