

## **The complaint**

Mr P is unhappy that HSBC UK Bank Plc allowed a third-party to make a payment towards his loan account. He says this delayed the date that his loan defaulted.

## **What happened**

Some years ago, Mr P had a loan with HSBC.

In 2010, his mother made a payment towards the debt. Mr P says this payment caused his loan to default later than he thinks it should have, subsequently impacting his ability to obtain finance elsewhere in the years that followed. His view is that a third-party shouldn't have been able to pay towards his loan and that HSBC accepted a 'fraudulent' payment.

Mr P was unaware this event had occurred, that is until another complaint that he'd raised with our service brought the matter to light. So, in late 2022, he complained about what had happened. HSBC provided its final response in January 2023; it didn't uphold Mr P's complaint. So, he referred the matter to our service for an independent review.

An investigator here looked at what had happened. Overall, he didn't think that HSBC had done anything wrong. In summary, he said:

- While it was clear that Mr P's mother had knowledge of his loan account, there wasn't anything to categorically show that HSBC had shared something it shouldn't.
- There wasn't anything to suggest that HSBC couldn't accept a payment from a third-party. So, it was reasonable of the bank to process the payment Mr P's mother made towards his loan account.
- It isn't the role of this service to determine if any data protection rules, like those set out in the Data Protection Act (DPA) or General Data Protection Regulation (GDPR), had been broken. That was for a court or the Information Commissioner's Office (ICO) to decide.

Mr P disagreed. He said that it was his debt, so it was his responsibility to repay it and HSBC shouldn't have accepted payment from elsewhere. He reiterated that the payment made by his mother had delayed the date his loan account defaulted, and that HSBC had provided a settlement figure directly to his mother – which was a breach of data protection regulations.

As no agreement has been reached, the complaint has 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.

It's clear that Mr P feels very strongly about what happened. So, I'll say at the outset that I hope he won't take it as a discourtesy if I haven't commented on each and every point he's made. Instead, I've kept things deliberately concise. That's because our role is to be an

informal service, and my approach here is simply to align with that purpose.

The crux of this complaint, I think, is that HSBC accepted a payment which Mr P feels it shouldn't. He sees that payment towards his loan as fraudulent because, in his words, it was unauthorised and made without his consent.

I, though, don't see things in quite the same way. Broadly speaking, there's nothing preventing a third-party such as, in this case, a family member, from paying towards someone's loan. Much the same way that money can be paid to a current account, or to a credit card, by somebody who isn't the account holder. With that in mind, when HSBC were offered this payment, I don't think there was anything inherently unreasonable in accepting it.

I'm aware that Mr P has spent some time reading published decisions from our website. Specifically, he's reviewed those about disputed transactions which have been upheld. Mr P believes our findings in those decisions support his argument that his mother's payment was fraudulent, and that his complaint should also be upheld. He's said the only difference in the decisions he's reviewed – in comparison to his own complaint – is that they deal with payments being taken from someone's account, rather than being paid in.

That, though, in my view, is quite a substantial difference. It isn't the same as what's happened here. So, I don't think those decisions set any precedent for – or have any bearing on – the circumstances before me in this complaint. Besides, each case is considered on its own merits, and I'm not bound by other decisions made upon different circumstances.

Mr P argues that the payment from his mother delayed his account in defaulting, which meant the default was visible on his credit file for longer. That's correct, it did delay the default, but I don't think HSBC was wrong to administer Mr P's loan in the way it did.

I say that because the bank was offered a payment, which I'm satisfied it was able to take, that it credited to Mr P's loan account. It then ultimately defaulted the loan around six months later having not received any further payments. I don't find that to be an irrational or unreasonable course of action on HSBC's part.

Turning to Mr P's concerns about HSBC releasing personal data to his mother, it's unclear exactly what happened. In my colleague's decision, regarding the other matters Mr P complained about, he indicated that, in his view, the bank had sent a settlement figure to Mr P's mother. On the other hand, I've seen that HSBC's final response letter for this complaint explains how it can't be certain – given the length of time involved – whether something was, or wasn't, sent.

The records the bank has been able to provide aren't comprehensive given the length of time that's passed. That's understandable, but nonetheless I've reviewed what is available.

HSBC's notes do seem to indicate that a settlement figure was generated, and probably sent, around the time that Mr P's mother wrote to it. That looks to have happened a few days after she'd made her payment towards Mr P's loan. There's nothing, though, which definitively shows the information was disclosed to her directly, like in a telephone call, for example.

Importantly, as our investigator explained, it's key to remember that it isn't for our service to decide whether there's been a breach of data protection regulations. So, to be clear, I'm

making no comment on whether HSBC has or hasn't done so. That's a matter for a court or the Information Commissioner's Office (ICO) to decide. So, if Mr P still has concerns about HSBC's actions in this regard, he can contact the ICO.

In any event, I've seen that HSBC has apologised if it did wrongly send out a settlement figure. That's what I'd expect it to do, if indeed this did happen. And solely as an observation, even if I was to adopt the position that HSBC likely sent a settlement figure when it shouldn't have, I've not been provided with anything to show that it caused impact to Mr P – like a specific financial loss – as a result. Instead, the only event I've seen to have occurred is that the loan defaulted – which I'm satisfied would've happened anyway.

It's with all of that in mind that, while I know what I've set out here won't be the answer Mr P is hoping for, for the reasons I've explained, I don't uphold this complaint.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 23 August 2023.

Simon Louth  
**Ombudsman**