

## **The complaint**

Mr A complains that HSBC UK Bank Plc has registered a default marker against his credit record in respect of a credit card debt.

## **What happened**

In December 2020, Mr A got into difficulties in paying the monthly instalments due on his credit card. He contacted HSBC and a payment break was agreed for three months. This meant that the interest charges were suspended and Mr A wasn't required to make any payments. In March 2021 HSBC notified Mr A that the payment break was coming to an end. As a result he got in touch with HSBC and spoke to an adviser on 10 April 2021. It was established that he could not at that stage afford to make payments. So a "long term no affordability" arrangement was set up for six months. The adviser said to Mr A that although interest charges would continue to be suspended, the missed payments would continue to accrue and he would receive a default notice once the arrears reached a certain amount.

HSBC sent a letter to Mr A confirming the arrangement, and also setting out that if he did not pay the overdue amount set out in any default notice, a final demand could be sent to him requiring him to pay the full amount due on the card.

HSBC subsequently sent Mr A a default notice, and then in October 2021 sent him a final demand. The account was then sent to debt recovery agents, and Mr A has been negotiating a payment arrangement with those agents, with the assistance of a debt advice charity.

Mr A says he did not receive the final demand, and he only discovered that a default marker had been registered against his credit record in January 2023. He feels this was unfair as he couldn't afford to make the payments but had been in touch with both HSBC and the debt recovery agents to try and reach payment arrangements. With the marker on his record he's unable to set up a business, which is what he wants to do.

On referral to the Financial Ombudsman Service, our Investigator said that HSBC had explained to Mr A the consequences of missing payments on his credit card. He said it was entitled to register a default marker and had to ensure that information on his credit record was accurate.

The matter has been passed to me for further consideration

## **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 A initially set up a payment break in December 2020. This lasted for three months and during that time HSBC did not take any action. However when the payment break ended, as it was established Mr A could not afford to make any payments on the account, a six months long term no affordability arrangement was set up. In the long telephone conversation Mr A had with HSBC's adviser on 10 April 2021, it was explained to him that such an

arrangement did mean that, although interest was suspended, the missed payments would continue to accrue. He was specifically told that a default notice would be sent to him, and that a final demand could be sent requiring him to pay the balance owing and that the account could be passed for recovery action.

I'm aware that Mr A says he did not receive the final demand, but it was sent to the same address as other letters and that address had been confirmed in the aforesaid telephone call.

I think that HSBC made clear in both the telephone call and subsequent letters that a default notice could be served even though Mr A was on a long term no affordability arrangement. The Information Commissioner's Office (ICO) says when a consumer is at least three months behind with their payments then a default may be registered. And it would expect a default to be registered by the time the consumer is six months behind with their payments. And because Mr. A was not making the payments, he did fall more than six months into arrears. Also HSBC did have the right under the terms and conditions of the credit card to send the account to debt recovery agents. I note that no interest has been applied to the account since December 2020.

I'm sorry that Mr A has found that the default marker is affecting his ability to set up a business, and that he got into financial difficulties. It will remain for six years from October 2021, although as he has been told if he's able to pay the debt off early this can be noted on the credit record (although the default marker won't be removed early).

To summarise, I think that HSBC acted appropriately in applying the default marker to Mr A's credit record and that it had explained to him the consequences of not being able to pay the minimum payments on his account.

### **My final decision**

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 27 October 2023.

Ray Lawley  
**Ombudsman**