

complaint

Mr N, a sole trader, complains that HSBC Bank Plc wouldn't accept a promissory note in settlement of his business debts with it.

background

Mr N's business has debts, including an overdraft, with HSBC. He requested a redemption figure and sent HSBC a promissory note for the full outstanding balance, together with a letter explaining why he believed HSBC was obliged to accept it in full settlement and discharge his debts.

HSBC refused to accept the promissory note. So Mr N complained. He said HSBC should be required to accept the promissory note and should refund the payments it had taken off him since he presented it. Our investigator didn't think HSBC had done anything wrong so Mr N asked for an ombudsman to make a decision on his case.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr N says that a promissory note is full and valid legal tender. So HSBC should have accepted it, and discharged his debts to it.

I'm afraid I don't agree about that. A promissory note isn't legal tender. It isn't money at all. It's simply a promise to pay a sum at some unspecified future date. HSBC already has such a promise in the form of the agreement Mr N signed, so another promise doesn't add anything.

Mr N has referred to case and statute law on promissory notes. But I'm afraid they don't say what he says they do. Where a creditor agrees to accept a promissory note, the debtor is legally required to pay it. But a creditor isn't obliged to accept it instead of actual payment.

HSBC lent Mr N the money. He agreed to repay. It's fair and reasonable, in my view, for HSBC to expect him to do so. He's already promised to repay the debt on the terms agreed. Making a further promise to pay isn't a substitute for actually doing so, and HSBC isn't required to treat it as such.

my final decision

For the reasons I've given, 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 N to accept or reject my decision before 18 October 2017.

Simon Pugh
ombudsman