

The complaint

Mr W complains that HSBC (UK) PLC (HSBC) closed his account, without giving him advance notice and registered a fraud marker against his name.

Mr W brings this complaint on behalf of his business, J Limited.

What happened

On 27 April 2020, HSBC wrote to Mr W saying it no longer wished to provide him with banking services and was closing his account. It suspended his account pending the closure, and sent him a cheque for the account balance three days later.

When Mr W tried to open a new account in order to cash the cheque, he found banks were declining his applications. He then discovered HSBC had registered a fraud marker against his name with the fraud prevention agency, CIFAS. Mr W complained to HSBC. He wanted HSBC to remove the CIFAS marker, explain why they closed his account, and pay him compensation.

HSBC rejected Mr W's complaint, so he came to our service. Our investigator said HSBC was entitled to close Mr W's account in the way it did. But she thought HSBC should remove the CIFAS marker and pay Mr W £150 in compensation.

HSBC accepted our investigator's outcome and arranged for the CIFAS marker to be removed three days later. Mr W thought HSBC should have to pay him more compensation.

He said he'd been declined credit and had applications for bank accounts rejected. And that he had to borrow money from his sister, as he wasn't able to obtain finance elsewhere. Mr W also said he wanted written confirmation that HSBC was at fault, so he can show it to companies he works with, to prove his innocence.

Because an agreement couldn't be reached, the case has come to me to issue a final 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.

Account block and closure

I'm satisfied HSBC acted in line with its legal and regulatory obligations when it blocked and closed Mr W's account. And that it was entitled to do so under the account terms and conditions that govern the relationship between HSBC and Mr W.

I understand why Mr W wants to know why HSBC blocked his account, and I've no doubt being deprived of access to his account caused him inconvenience, particularly given the restrictions on movement during the national lockdown.

But, in order to compensate Mr W for any distress and inconvenience he experienced, I would have to say that HSBC acted unfairly or took action that it was not entitled to take. And, under HSBC's terms and conditions, it is entitled to block payments and services in certain situations, without giving a reason for doing so, and without giving notice. That doesn't mean that Mr W has engaged in any unlawful activities, just that HSBC no longer wants him as a customer.

Having looked at the evidence, I can see no basis on which I might make an award against HSBC. And I am satisfied it complied with its own procedures when it blocked and reviewed Mr W's account. So, I'm not going to ask it to compensate him for any distress and inconvenience this may have caused.

CIFAS marker

HSBC has explained to our service why it registered a CIFAS marker against Mr W. And it's provided evidence in support of its decision to do so. However, it's worth noting HSBC agreed to remove the marker after our investigator issued her opinion. That's noteworthy because our investigators' opinions are not legally binding and financial businesses are entitled to, and regularly do, ask for an ombudsman to review the matter afresh, if they do not agree with the investigator's outcome.

Banks take concerns of fraudulent activity very seriously (they are obliged to do so by strict regulations) and I would not expect a bank to accept an investigator's opinion on a matter such as this, without asking for an ombudsman's final decision, if it had serious concerns about fraud.

Had HSBC not removed the marker though, I would have told it do so in this decision. I haven't seen anything to justify applying a CIFAS marker against Mr W and, based on the evidence I've seen, I consider HSBC made a mistake in doing so.

Mr W also said he has concerns that his reputation will be damaged as some companies may think "there's no smoke without fire". Mr W hasn't expanded on what companies may have concerns, or why that would be the case. But I accept that's an understandable concern. So, Mr W can show this final decision to any such parties to demonstrate the correct position.

Compensation

I should start by saying that because J Limited is a separate legal entity to Mr W, I can only make an award for inconvenience experienced by the *company*, and not Mr W. So, while I can compensate J Limited for the inconvenience of the time one of its Directors spent away from the business, I can't compensate it for frustration Mr W experienced personally in speaking to HSBC, or in taking care of his finances.

I can take damage to reputation into account when I make awards, but I have to consider all of the circumstances of the particular case.

In this instance, I accept the possibility the CIFAS marker would have caused some damage to J Limited's credibility. But I haven't seen any evidence to persuade me that T Limited suffered any lasting damage. Mr W was able to open other accounts, albeit not necessarily his first choices, and he won't experience any further difficulties as a result of the CIFAS marker.

I recognise what Mr W says about time spent in dealing with various matters surrounding this issue. But for the reasons I've set out above, I can't take into account the distress and inconvenience he experienced personally. And I agree the inconvenience caused to J Limited by the time Mr W spent resolving matters wasn't sufficient to justify a higher award than the £150 our investigator suggested.

I'm sorry this isn't the outcome Mr W hoped for. But I hope he will understand that I'm not seeking to downplay the distress Mr W experienced: I'm simply saying I can't take that into account when deciding to award compensation to a limited company.

My final decision

My final decision is that I uphold this complaint in part. To put things right, HSBC should pay Mr W £150. And remove the CIFAS marker registered against him, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 7 May 2021.

Alex Brooke-Smith
Ombudsman