

The complaint

Mr A and Mr B complain, as trustees of a trust, about the service they received from HSBC Bank UK Plc when setting up internet banking.

What happened

Mr A and Mr B are trustees of a trust that banks with HSBC.

Mr A and Mr B approached HSBC with a view to setting up internet banking for the trust back in March 2018. They say that they were only able to successfully log on in early September 2019, following errors and delays on the bank's part.

In response to three complaints while the matter was ongoing, HSBC accepted responsibility for some of the delay – but not all of it. In summary, it said:

- The first three requests it had received for internet banking couldn't be processed for legitimate reasons. The first wasn't signed in accordance with the account mandate, the second wasn't signed by the account's primary user and the third contained an error in the account type. It wrote to the trustees on each occasion to explain what was wrong.
- It had subsequently needed documentation from the trustees to confirm the correct account type, which it hadn't received until late November 2018.
- There was then some delay on the bank's part in getting back in touch with the trustees. While branch staff had made some attempts to reach them over the phone, more could've been done – such as sending a letter to request that they get in touch. It paid the trustees compensation of £150 in March 2019 for the inconvenience this had caused.
- Further delays were subsequently caused by the bank, when the trustees didn't receive an application form or welcome letter. It paid a further £150 compensation for this in September 2019.

Mr A didn't accept HSBC's response and referred their complaint to us. He wanted the bank to pay compensation for his time at his hourly rate and the cost of his travel to attend bank branches, which amounted to a total of £3,473.54.

One of our investigators reviewed the complaint. She thought it should be upheld, and recommended that HSBC increase its offer of compensation to a total of £500. In summary, this was because she thought that the bank had made errors in setting the account up in the first place – which had then been the cause of some delay in arranging the internet banking. And even after this had been corrected in March 2019, there'd been a further delay by the bank in completing the internet banking registration – which wasn't done until August.

Mr A accepted our investigator's recommendation, but HSBC didn't respond. So with no resolution, the complaint was escalated to me for review.

My provisional decision

I issued a provisional decision on this complaint last month, setting out why I didn't intend to require HSBC to take any further action.

I explained that this was, in part, because the limits to our jurisdiction meant that we could only investigate any acts or omissions by HSBC on or after 1 April 2019. On this, I said:

We're not free to consider every complaint that's brought to us – there are rules that set out the limits of our jurisdiction. These rules – known as the DISP rules – are set by the industry regulator, the Financial Conduct Authority (FCA), and can be found in its handbook online.

DISP 2.7.1 says that we can only consider complaints referred to us by (or on behalf of) an "eligible complainant". DISP 2.7.3 sets out those who are eligible in more detail, which includes trustees of a trust.

There are, though, limits that apply to the size of a trust from which we can consider a complaint – and this has changed in recent years. While the limit is currently a net asset value of less than £5 million (at the time the complainant refers the complaint to the financial business), this only applies to complaints about acts or omissions that occurred on or after 1 April 2019. This is set out in Transitional Provision 51, which is also contained in the DISP rules. For complaints about anything before that date, the limit is a net asset value of less than £1 million.

Mr A and Mr B told us that the trust they represent has a net asset value of £2 million. Based on the above, this means that we're unable to consider a complaint from them about anything that happened prior to 1 April 2019.

I appreciate this will come as a disappointment to Mr A and Mr B, especially at this stage in our process and as much of their complaint relates to things that happened prior to 1 April 2019. But I'm afraid I have no discretion to set aside these rules. I am therefore only able to consider their complaint insofar as it relates to acts or omissions by HSBC on or after 1 April 2019.

I went on to set out my provisional findings on the aspects of the complaint that fell within our jurisdiction. While I thought there had been some shortcomings in the service Mr A and Mr B had received since 1 April 2019, I thought the compensation that HSBC had already paid was fair – so I didn't think it needed to do anything further. I said:

In its response to a complaint from Mr A of 26 March 2019, HSBC had said that it would be in touch with him to discuss the outcome of a review of the account type. I understand this arose from issues with how the account had been set up (seemingly as a partnership – not trustee – account).

It seems HSBC attempted to call Mr A that day, but didn't reach him. Having heard nothing, Mr A called HSBC on 21 June. After speaking with an adviser, the bank says it sent out a business internet banking application form that day – but Mr A didn't receive this. HSBC also tried to call Mr A again on 24 June and 12 July, but again didn't reach him. In the interim, Mr A wrote to HSBC to express dissatisfaction that he'd not heard anything from the bank and that the trustees remained without internet banking.

While I can see that HSBC was taking some steps to move things along and contact Mr A, I think it ought reasonably to have done more here. It seems that the most important thing was to ask that he reapply again and provide him the means to do so. When it hadn't been able to reach him by phone, I think it could've followed up – with further calls or by letter or email – to explain the next steps and provide the requisite form. This only happened when Mr A chased things up, causing delay and inconvenience.

On 9 August 2019, the trustees submitted the application and the trust was successfully registered for internet banking a few days later. There then appears to have been a further delay in setting it up, which I understand to be – in part – because the bank didn't notify the trustees that the registration was complete. So Mr A chased things up again, before proceeding to get things set up towards the end of that month.

In summary, I think there were some shortcomings in the bank's service over this period that caused delays and, subsequently, inconvenience to the trustees – both in following up with the bank and being without internet banking facilities for longer than necessary. It's right that they're compensated for this.

Mr A's timeline of events details a total of three and half hours spent on the matter, as well as an hour spent travelling. I think some of this would always have been necessary – such as completing the application form and setting up the internet banking for the first time. But some of it was avoidable, and the consequence of HSBC's errors.

HSBC has already acknowledged that its service from March 2019 onwards fell short of the standard Mr A was entitled to expect and paid a further £150 compensation on top of the £150 it had already paid for earlier problems. Bearing in mind the limits of what I can consider here, I think the additional £150 represents a fair way to put things right – so I'm not intending to direct HSBC to do anything more.

Mr A and Mr B confirmed receipt of my provisional decision but didn't reply with any further comments or information for me to consider, other than to express disappointment with the decision and that they supported our investigator's recommendation of £500 compensation.

HSBC didn't respond.

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.

Having done so, and with no new evidence or information for me to take into account, I've not reached a different conclusion from that set out in my provisional decision. So this decision confirms my provisional findings, as summarised above.

I recognise that Mr A and his fellow trustees will be disappointed by this decision. I'd like to highlight that a significant factor in my decision to amend the award proposed by our investigator is that of the limits that apply to our jurisdiction. So I'm not saying that there were no errors or shortcomings by the bank prior to 1 April 2019 – rather, that we do not have the power to investigate them (or to award compensation for them).

The scope of my review was limited to acts or omissions by the bank on or after 1 April 2019. And for the impact of errors caused by the bank during the relatively short period of

time for which the matter was ongoing thereafter, I think HSBC has already fairly compensated the trustees.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mr B to accept or reject my decision before 8 July 2021.

Ben Jennings
Ombudsman