

The complaint

A company, which I'll refer to as "S", complains that HSBC UK Bank Plc unfairly deprived it of access to its funds when restricting and closing its bank account.

S's director, Mr T, brings the complaint on the company's behalf.

What happened

S banked with HSBC. It applied to the bank for a Bounce Back Loan in early May 2020. HSBC initially approved the application and it issued a loan agreement to Mr T, which he signed and returned. But after carrying out further checks, the bank reversed its decision and declined the application. It advised S of this by email on 15 June 2020.

Shortly thereafter, HSBC carried out a review of S's bank account. The bank applied a restriction to the account on 23 July 2020, which remained in place while the review was conducted. This meant the company couldn't use the funds of around £25,000 held in the account.

Unable to access S's account over the weeks and months that followed, Mr T raised a number of complaints with HSBC. The bank didn't uphold these. It said the account was restricted while under review so that it could comply with its statutory requirements. So Mr T referred the matter to us.

HSBC subsequently concluded its review and wrote to S on 14 December 2020 to advise that it was ending its relationship with the company and would be closing the account, which it did on 12 January 2021.

HSBC sent S a cheque for the closing account balance of around £27,000 on 14 January 2021, but Mr T says he didn't receive this and the funds are still with HSBC. He says he's been unable to open a new account for S and wants HSBC to pay the funds into his personal account instead.

One of our investigators looked into things and thought that the complaint should be upheld in part. She didn't think that HSBC had done anything wrong in declining S's application for a Bounce Back Loan or in deciding to restrict, review and close the company's account. But she thought that the review had taken much longer than necessary, as the bank's intention to close the account was apparent shortly after the restriction was applied – but it had taken until January 2021 to resolve the matter.

To put things right, our investigator thought HSBC should pay 8% interest on the balance from August 2020 until it was returned. She thought that HSBC should pay this directly to Mr T, because S didn't have an account and Mr T – as the company's director – could decide how to use its funds. She also recommended that HSBC pay S compensation of £350 for the inconvenience it had been caused.

Mr T accepted our investigator's view but HSBC didn't. It acknowledged that S's account had been restricted for a "delayed period", but didn't think it was fair to compensate the company

for this in the circumstances. It was unwilling to pay the funds to Mr T as it said that its policy required that the funds be paid only to S. And given this, it couldn't see that S had lost out – as even if it had released the funds to S any earlier, the company wouldn't have been able to cash the cheque anyway. So with no resolution, the complaint was 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.

HSBC has a number of legal and regulatory obligations to meet in providing banking services to its customers. Banks are required to keep accounts and their use under review, and may need to suspend access or services in order to do so.

The terms and conditions of S's account allowed HSBC to restrict the account usage – in making and receiving payments – in the way it did here. HSBC has explained that it did so in order to comply with its statutory obligations. From the information I've seen, I'm satisfied that this was the case. And while I note Mr T was unhappy at the lack of notification or timescale he received about the matter, HSBC wasn't required to give S notice of its actions or provide a timeframe within which they would be complete.

The terms and conditions also allowed HSBC to close S's account immediately in certain circumstances. I'm satisfied that it was reasonable for the bank to do so here and HSBC provided the appropriate notification of this to S once the decision was made.

Although HSBC was entitled to take the actions it did, I'd also expect it to do so within a reasonable timeframe. It applied a restriction to S's account on 23 July 2020 and deprived the company of access to its funds until it released them on 12 January 2021. Based on the information I've been provided with, I don't think this was reasonable.

HSBC hasn't demonstrated that it was actively progressing matters during this period. It doesn't seem that it based its decision to close the account on anything other than the information that it obtained in June 2020, when reviewing S's Bounce Back Loan application. It seems, in fact, that HSBC opened S's account in error in the first place. Arguably then, the whole situation could've been avoided but for HSBC's mistake in allowing S to open and operate this account in the first place. So like our investigator, I think the bank ought reasonably to have reached its decision to close S's account – and release its funds – within a few days of applying the restriction.

Similarly, HSBC hasn't demonstrated that there was any justification in continuing to restrict S's access to the funds even after it had decided to close the company's account. The funds belong to S. While there are circumstances in which it may be appropriate to limit a customer's access to their funds, I've not seen anything to suggest that it was reasonable to do so here. S ought reasonably, then, to have been able to transfer or withdraw the funds to use as it wished once HSBC had completed its review.

Instead, HSBC has insisted that the funds be paid by cheque to S even when the company has explained that it has no account into which this could be paid. I don't think that is reasonable in the circumstances here. As above, I've not seen that HSBC had sufficient cause to withhold the funds from S – so Mr T, as the company's director and account signatory, ought to have been able to disperse them as he wished.

I recognise that HSBC was following its policy in deciding how to release the account balance to S. It's not for me to decide whether the policy itself was fair or correct, or require the bank to change this. As above, I understand that there will be circumstances where it is

appropriate to direct payment only to a particular entity or accountholder. But for the reasons I've explained, I don't think it was fair to do so in the individual circumstances of this case. So to put things right, I think HSBC should release the account balance in line with S's instruction (unless there are any other grounds on which it may reasonably refuse to do so, in accordance with the account terms and conditions).

I also think it would be fair for HSBC to compensate S for the inconvenience it was caused by the delay in completing the review and releasing the account balance. Mr T had to chase things up on a number of occasions, including a number of calls, a visit to a branch, raising the complaint and ultimately referral to us. The company was left without the use of its funds for significantly longer than necessary and had to make alternative arrangements during this period. For this, I also think it would be fair for HSBC to pay S compensation of £350 and add 8% interest to the account balance from 1 August 2020 to the date of this decision. It will then be up to Mr T to confirm to HSBC his instruction for the release of the funds.

I understand that Mr T has accepted HSBC's decision to decline S's Bounce Back Loan application. So I won't comment on that in any detail here, other than to confirm that I think the bank's decision was made in line with the rules of the Loan Scheme and was reasonable on the basis of the information it considered when conducting its assessment. It's regrettable that the application was initially approved, but HSBC was entitled to keep things under review and I don't think this prejudiced S's position or caused the company any losses. So I'm not requiring HSBC to do anything in respect of this aspect of the complaint.

My final decision

For the reasons set out above, I uphold this complaint and require HSBC UK Bank Plc to:

- Calculate 8% simple interest per year on the account balance from 1 August 2020 to the date of this decision and add this to the outstanding balance due to S;
- Pay S compensation of £350, which again will need to be added to the amount owed to S; and
- Act on S's instruction to release the account balance including the above additions, subject to the terms and conditions that applied to S's account.

Under the rules of the Financial Ombudsman Service, I'm required to ask S to accept or reject my decision before 4 April 2022.

Ben Jennings
Ombudsman