

## **The complaint**

Mrs M complains about the way HSBC UK Bank Plc (HSBC) treated her when she reported loans had been taken out fraudulently in her name and economic abuse.

## **What happened**

Mrs M had a joint account with her then husband, Mr M. On 2 June 2019 Mrs M called HSBC to report fraud after opening post while Mr M was abroad. She explained that her husband took out two loans in her name without her knowledge. The HSBC agent Mrs M spoke to explained that telephone banking had been suspended because of answers given to security questions and so Mrs M would need to attend a branch of HSBC with identification. Mrs M and her father asked that Mrs M's accounts be blocked but the agent said there was nothing she could do. Mrs M believes Mr M changed the security details so that she wouldn't have access to the joint account.

On 4 June 2019 Mrs M attended a branch of HSBC and her joint account with Mr M was inhibited. At this meeting Mrs M was told her signature didn't match that held on record. Mrs M believes this was another tactic by Mr M to take over the joint account and ensure she had no access to it. The fact Mrs M's signature didn't match HSBC's records also meant there was a delay in HSBC providing relevant information to the police.

HSBC's records show it concluded Mrs M's claims that loans were taken out fraudulently in her name by her husband was a civil or family matter and so HSBC couldn't get involved. Both loans Mrs M complains about were taken out online and loan funds were credited to Mrs M's joint account with Mr M. The first loan was taken out on 29 December 2018 and was for £15,000. At the beginning of January 2019 £16,000 was transferred from the joint account to Mr M's sole account and then £13,000 was transferred to a business account. Mr and Mrs M were both signatories for the business account. The second loan was for £11,000 and was taken out on 17 January 2019.

On 22 July 2019 Mrs M raised a complaint. She asked HSBC to cooperate with the police in respect of the fraudulent loans, to confirm that all her accounts had been blocked and said that all payments from 3 June 2019 should have been blocked by HSBC but weren't. Mrs M also asked HSBC to provide proof she'd taken out the loans and benefited from them. HSBC said it couldn't provide the loan agreements but provided details of the loans and suggested Mrs M look at statements to see how the funds were used.

After Mrs M referred her complaint to this service in August 2020 HSBC say a recently set up specialist team investigated Mrs M's claims about the fraudulent loans. This team prepared a report dated 28 August 2020 that concluded the loans were taken out fraudulently by Mrs M's husband and referred to coercive control by him. The specialist team recommended that HSBC write off both loans and refund £1,898.17 to Mrs M. The payment included a refund of £913.09 for transactions that took place between 2 and 4 June 2019 (Mrs M's fraud call and her subsequent branch visit) as well as a refund of credits made in the period that were then spent by Mr M. The loans were written off, but no refund was made.

Mrs M has explained that she was in an abusive relationship from the age of 16. She worked long hours which were booked by Mr M and had no control over her finances and wasn't allowed to open any post, including statements. Internet banking was set up at a branch

visit, but Mrs M never used it. Mrs M says that she didn't realise until 2019 that she was the victim of domestic abuse in the form of financial fraud.

Mrs M says HSBC:

- Delayed in responding to and failed to cooperate with her and the police. This has had a significant impact on Mrs M emotionally and financially. The delay meant the police decided there was insufficient evidence to prosecute Mr M for fraudulent abuse. Mrs M says the financial implications of this include:
  - o Additional legal costs of around £30,000. Mrs M says that had HSBC cooperated with the police Mr M would have been arrested and she'd have been given sole custody of their children without the need for costly court hearings. And court proceedings have been delayed by the pandemic, further increasing Mrs M's legal fees.
  - o If Mr M had been arrested on further charges Mrs M says she wouldn't have agreed to a 50/50 split in divorce proceedings resulting in a loss of around £28,000.
  - o Lost wages of a minimum of £60,000 over the two years she has been unable to work because of the stress of Mr M's account takeover and HSBC's handling of it.

The delays have also had a huge emotional impact on Mrs M and her family.

- Failed to provide information requested, like the loan agreements and signature mandate.
- Failed to notice unusual transactions on the joint account over a lengthy period of time (but in particular the latter half of 2018 to 2019). Mrs M says she was the only one who paid funds into the account but her transactions on the account were minimal, while Mr M enjoyed a lavish lifestyle and withdrew large sums of cash. In particular, Mrs M says £127,000 was withdrawn from the joint account between September 2018 and March 2019 including large cash withdrawals; numerous transactions and transfers to Mr M's accounts; and four loans were taken out in a six-week period (including the two loans taken out in Mrs M's name). She believes that a casual look at the activity on the joint account would have raised alarm bells. Mrs M says HSBC has never responded to this aspect of her complaint.
- Not provided her with any support even though on the day she reported the fraudulent loans HSBC said in the press it would treat victims of domestic abuse with extra care, support and sympathy. Mrs M says that HSBC staff in branch and during calls treated her like she was the criminal and she'd like to claim for injury to her feelings. On 18 June 2019 and other occasions branch staff failed to recognise her signature even though she attended with detailed documentation – and this also delayed police enquiries.
- Allowed further transactions on the account between her call to report fraud on 2 June 2019 and her visit to branch on 4 June.
- Held her responsible for the two loans Mr M took out in her name until 2 November 2020, meaning she was in constant fear for her financial future from 2 June 2019 until then.

Mrs M had an account with another bank that was also taken over by Mr M. She says by contrast this other bank noted unusual transactions, completed a quick investigation and concluded her account had been taken over by Mr M. During the investigation she was supported, and the other bank cooperated with the police.

*Our investigation so far*

The investigator who considered Mrs M's complaint recommended that it be upheld, and that HSBC should pay her £1,500 to compensate her for the additional distress and inconvenience he felt HSBC's actions caused her. He said this because:

- The fraudulent loan aspect of the complaint had been resolved in that the outstanding sums had been written off and all reference to them removed from Mrs M's credit file. But HSBC hadn't been clear if this was on a goodwill basis or because it believed the loans had been taken out fraudulently and the decision not to hold Mrs M liable was made a year later. The investigator felt that HSBC's original decision that the issue of the loans was a civil matter failed to take into account training staff had received in respect of financial abuse and coercive control. The result was that Mrs M was put to additional stress and worry about the outstanding debt at an already difficult time for her.
- Mrs M's account should have been blocked when she went into branch on 4 June 2019, but it wasn't – meaning funds were debited from the account after this date. Although HSBC appeared to have agreed to refund these sums there was no evidence it had, so the investigator directed HSBC to do so.
- HSBC acted reasonably in not recognising that Mrs M's accounts had been taken over. This was because it was a joint account, so Mr M was free use it as he saw fit and because the transactions didn't seem concerning.
- Although the investigator couldn't divulge HSBC's internal policies, he said he was satisfied it hadn't followed them completely including in respect of identification or offering a single representative to discuss matters with Mrs M.
- HSBC had tried to respond to Mrs M's queries but had been unable to provide all information requested. The investigator said he couldn't comment on this aspect and referred Mrs M to the Information Commissioner's Office (ICO).
- In terms of the overall service provided the investigator felt HSBC had caused avoidable delays. It was put on notice that Mrs M was the victim of financial abuse and coercive control when she visited the branch on 4 June 2019 and should have updated the mandate then which would have allowed HSBC to respond to the police sooner.

HSBC didn't respond to the investigator's findings.

Mrs M agreed that HSBC had delayed in responding to enquiries made by her and the police. But she felt that the amount the investigator awarded didn't recognise the degree to which she had been affected. In summary, Mrs M believes that had HSBC acted appropriately the criminal case against Mr M would have gone to court before the outbreak of the Covid 19 pandemic and she and her parents wouldn't have had to endure the mental and physical cost of several additional court hearings. In addition to this, Mrs M says the threat of recovery action in relation to the two loans hung over her until 2 November 2020. The level of stress and trauma she endured meant she was unable to work for two years meaning that even if she used the minimum salary for her role, she lost £60,000.

Mrs M said the award made by the investigator barely covered the costs she and her parents incurred in bringing the complaint to this service and responding to extensive questions. Mrs M also said that had she known the award would be £1,500 she probably wouldn't have proceeded with her complaint.

Mrs M also said she'd not received a formal apology from HSBC for the way it has treated her and that even now it hasn't answered some of the questions asked or responded to the investigator's requests for information. Finally, Mrs M said she hadn't received the refund HSBC had agreed to.

## 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.

I'm sorry to hear of the circumstances that have led to this complaint. It is clear Mrs M has been through an extremely difficult time and that she has been a victim of financial abuse perpetrated by Mr M. What I need to decide is whether HSBC treated Mrs M reasonably and what, if anything, it should do to put things right.

I'm grateful to Mrs M for the time and effort she has put into providing evidence to this service and in clearly setting out her complaint. Mrs M has referred to the impact this case has had on her, her children and her parents. I recognise the wide-ranging impact of the fraud itself and HSBC's handling of it, but can only consider the effect on Mrs M as she is the only person who is a customer of HSBC and so eligible to complain.

### *The fraudulent loans*

I'm pleased that after Mrs M referred her complaint to this service HSBC agreed to write off the two loans and remove any references to them from Mrs M's credit file, so this aspect of the complaint has been resolved. When I reviewed the complaint, I asked HSBC about whether it had refunded the debits and credits in line with the recommendations of its specialist team. HSBC confirmed the refund was missed and asked for Mrs M's account details, which have been provided. The refund of £1,898.17 now needs to be paid to Mrs M.

But I need to take into account the fact that HSBC only agreed to write off the loans in November 2020, sixteen months after Mrs M first contacted it about them and that even then, HSBC didn't make the payment its own team had recommended. So, at an already very difficult time for Mrs M, she also had the worry of being held responsible for quite significant loans taken out in her name. And over 33 months after Mrs M first contacted HSBC she hasn't been provided with a refund in respect of transactions that took place after she reported fraud.

I don't consider HSBC's initial conclusion that this was a civil or family matter it couldn't deal with was fair or reasonable – and its own specialist team reached a very different conclusion when Mrs M's circumstances were carefully considered at a later date. I consider HSBC's early responses to Mrs M failed to take into account what she told it about her circumstances, the training its staff received about economic abuse and its own safeguarding policies. At a time when HSBC announced publicly its support for victims like Mrs M, it let her down and so I'm satisfied HSBC should pay compensation for the reasonable and foreseeable consequences of its failings.

### *Activity on the joint account*

Having carefully considered the circumstances of this complaint, I don't think I can fairly criticise HSBC for processing the payments from the joint account that Mrs M has highlighted. As the payments were made from a joint account either account holder could use the account as they wished. HSBC's current personal banking terms and conditions say,

*Any joint account holder can use the account. They can get information about the account and ask us to make or stop payments. They can also apply for an arranged overdraft, and close the account and have the money in it paid to them.*

I appreciate the payments Mrs M has discussed have taken place over a number of years but the overall position for joint accounts hasn't changed in that either account holder can use the account.

But I've also considered whether HSBC should have been on notice that Ms M might be the victim of financial abuse given the transactions on the joint account. Mrs M has provided evidence to demonstrate Mr M transferred funds from the joint account to share companies, made numerous cash withdrawals – sometimes three or four in a day, transferred funds to accounts in his own name, paid funds to accounts with the names of their children as the reference and paid a credit card in his sole name from the account. I appreciate that we now know Mrs M wasn't aware these transactions were happening, but I don't consider they would have been so suspicious to HSBC that it should have intervened and prevented further transactions. These kinds of transactions are very normal for a joint account and so I wouldn't expect HSBC to have any concerns about them.

Transfers to other accounts in either party to a joint account's name, to pay off credit card debt and to children are all normal account activities, as is transferring funds to a savings account. In between these transactions regular spending on bills and household expenses also took place. And I consider it unreasonable to expect a bank to track the spending of each party to a joint account. Whilst I accept a lot of cash was withdrawn, it's not for HSBC to question how joint account holders choose to organise their finances. I'm also mindful of the fact HSBC would have no indication of whether the funds were used for the benefit of one or both parties

I've gone on to consider whether HSBC should have had any concerns about how the loan funds were spent at the time, before Mrs M reported the fraud. For many of the reasons I've set out above in respect of the activity on the joint account, I'm not persuaded it should. Also, the majority of the funds from the December 2018 loan were transferred to an account in Mr M's name and then to a business account for which Mrs M was also a signatory. So I can see why at the time HSBC had no concerns. The second loan of £11,000 wasn't cleared from the account immediately, which is what I'd usually expect of a fraudster.

Overall, I'm not persuaded HSBC missed clear indicators that Mrs M was at risk of financial harm.

#### *Safeguarding and service*

It's not clear exactly when the possibility of financial control was first raised. I believe Mrs M raised it in her first meeting with HSBC on 4 June 2019. I've seen a note made by HSBC on 28 August 2019 which says Mrs M's husband was "*very controlling and does not let her have access to financial information.*" So, certainly by this time, HSBC was on notice that there was more going on here and that Mrs M required additional support. But HSBC didn't follow its own internal policies and exercise discretion in terms of the signature it held for Mrs M or provide her with a single point of contact as I consider it should have. Instead, Mrs M spoke to and emailed numerous departments within HSBC to try to resolve her issues.

The report from HSBC's specialist team in August 2020 concluded,

*"It is clear that the customer is in a vulnerable position and has been controlled for almost 20 years."*

Even with this evidence HSBC didn't take steps to make the recommended payments or to understand the impact of its actions on Mrs M.

Mrs M asked HSBC to provide her with information like copies of the loan agreements taken out in her name and the signed mandate for the account. HSBC has explained that it was unable to provide Mrs M with these documents. I understand how frustrating this was for Mrs M, but don't consider HSBC acted unreasonably in not providing confidential information to Mrs M.

#### *Indirect losses*

I've considered Mrs M's assertion that had HSBC acted more promptly Mr M may have been charged with the additional offence of fraudulent abuse and the criminal case against him

may not have been delayed by the pandemic. Mrs M says the result may have been reduced legal fees in respect of custody and divorce proceedings and a more favourable divorce settlement.

I accept there was a delay in the provision of information to the police and I've discussed above the steps I think HSBC should have taken in respect of the mandate so that information could have been shared sooner. But I've not seen any evidence to persuade me that had HSBC cooperated with Mrs M and the police sooner Mr M would on the balance of probabilities have been charged with further offences, court proceedings wouldn't have been delayed by the Covid 19 pandemic and Mrs M could have reached a more favourable divorce settlement.

The police and Crown Prosecution Service take a lot of factors into account when deciding the likely chances of a prosecution and I'm not persuaded that if HSBC had provided information sooner the prospect of a successful conviction for offences beyond fraud and theft would be any different. Mrs M has referred in correspondence to the fact the police have told her this is a complex case and that understanding it fully would require a forensic accounting specialist. In light of this, I'm not persuaded that the provision of information by HSBC a few months earlier would more likely than not have led to Mr M being arrested for fraudulent abuse. And in any case, any criminal proceedings are separate to proceedings in the family court. So I'm also not persuaded HSBC is responsible for additional court costs incurred in custody proceedings because Mr M wasn't charged with fraudulent abuse or for the divorce settlement reached.

I understand that the Covid 19 pandemic has delayed proceedings further and added to Mrs M's distress. Whilst I appreciate how disappointing and difficult the whole experience must have been for Mrs M, I don't believe this was a foreseeable consequence and so I can't fairly hold HSBC responsible for it.

Turning to Mrs M's loss of earnings, I consider the main reason Mrs M has been unable to work is the abuse and its impact on her and her family. Whilst HSBC hasn't done what I think it should have, I don't believe it's fair to say that had it done so Mrs M would have carried on working as she had before.

It's important to remember that most of the distress Mrs M has suffered relates to the actions of Mr M. I agree with Mrs M that HSBC should have treated her sensitively and provided her with support, but it didn't do so. HSBC staff failed to follow internal policies designed to protect victims like Mrs M. This meant Mrs M had to contact numerous departments in HSBC and wait much longer than she should for the outcome of HSBC's investigation. So at an already extremely difficult time for Mrs M she was put to unnecessary stress and inconvenience. In addition to this, Mrs M had the worry of being held responsible for loans she didn't take out for around sixteen months. So I'm persuaded HSBC should compensate Mrs M and that £1,500 is a fair amount in the circumstances. But I'm not satisfied HSBC should be responsible for Mrs M's legal fees, the choices she made when agreeing a divorce settlement or her loss of earnings.

The award I am making is designed to compensate Mrs M for the additional distress and inconvenience she suffered because of HSBC's actions. But I have no power to fine or punish HSBC. My conclusion acknowledges that HSBC let her down and should have done more to support her.

### **My final decision**

My final decision is that HSBC UK Bank Plc should pay Mrs M:

- £1,500 compensation;
- £1,898.17 as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 20 April 2022.

Jay Hadfield  
**Ombudsman**