

The complaint

Mr P complains HSBC UK Bank Plc (“HSBC”) unfairly restricted and then closed his account. And by doing so have caused him substantive loss, distress, and inconvenience.

What happened

HSBC reviewed and subsequently blocked Mr P’s accounts in February 2021. HSBC allowed Mr P to withdraw funds from his account which related to any salary or benefits, but only through its branch network.

This meant Mr P had to go to one of HSBC’s branches to access his money. Mr P says this caused him severe inconvenience as he is registered disabled – and it also caused him financial loss as he incurred parking fines due to HSBC not providing him with adequate parking provision.

Mr P says he was told in branch his direct debits payments would continue to be made. Mr P says his direct debits were cancelled by HSBC despite what he was told, and because of this he has incurred fees and charges from two companies he had direct debits set-up with.

Unhappy with HSBC’s actions, Mr P complained. HSBC did not uphold the complaint. In short it said, it retains the right to review all accounts at any time and without prior notice. And there are not set timescales for its reviews.

Mr P then referred his complaint to this service.

In July 2021, HSBC sent Mr P notice it was closing his account and sent him a cheque for the funds which remained in it. Mr P was unable to cash the cheque as he says he didn’t have an account where he could present it. Later in August 2021, HSBC transferred the closing balance to his nominated account.

Mr P has told us the money that was held from February 2021 until August 2021 by HSBC prevented him from getting access to private medical consultation as he suspected he had a serious medical condition. He says this has caused him severe distress.

HSBC accepted it had caused some delay and offered Mr P £75 as compensation for any distress and inconvenience caused.

Our Investigator then looked into the matter. In the round, and in summary, they found:

- To meet its regulatory and legal obligations, HSBC may carry out review of its customer’s accounts and may add a block to them
- HSBC’s caused avoidable delay in its investigation between March 2021 and July 2021, which caused Mr P pain and suffering given he couldn’t seek private medical treatment he needed urgently
- HSBC didn’t make an error in deciding to close Mr P’s account and did so in line with its terms and conditions

- The Payment Account Regulations 2015 allow for providers of basic bank accounts to close the account if the consumer has access to another bank account. As Mr P had another account at the time of opening, HSBC were within its rights to close his account
- HSBC was not at fault for Mr P getting parking tickets as it does not offer disabled parking at its branches. As a disabled parking card owner the onus was on Mr P to plan his trip and to park as close as he could using his parking badge
- Mr P hasn't provided any evidence of direct debit premiums being cancelled nor of any fees he incurred. HSBC don't have any evidence of any call or face to face conversation in branch which shows Mr P may have been told his direct debits will be paid despite the block.

On balance, it's likely Mr P was told his direct debits wouldn't be cancelled in branch because if he knew they would be, he would have informed his providers. HSBC later said the direct debits were cancelled by its system, and its systems show this was in July 2021

- HSBC should pay Mr P £700 for the distress it caused him – which includes inconvenience caused by the direct debit issue. HSBC should also pay 8% interest on this amount from February 2021 until 13 July 2021

Mr P did not agree with our Investigator. In summary, some of the key points he made are:

- He did not have another account or access to another account at the time the block was put on his HSBC account. Because of this Mr P questions if HSBC acted fairly in closing his basic bank account
- HSBC should provide rationale as to why it decided to review and close Mr P's account
- He did provide evidence of his direct debit premiums being cancelled and incurring fees as a result. The payment schedules he'd sent in showed what late payment fees he would attract from the respective businesses. He has incurred late payment fees of £40. The direct debits were cancelled in March 2021 and not July 2021
- HSBC caused further delay by issuing him with a cheque in July 2021 before transferring the funds in August 2021
- If HSBC had allowed Mr P access to his account without going into branch, he would not have incurred any parking fines. Given his medical condition, it is not viable for Mr P to wait hours on end to get a parking spot to access his money
- £700 plus 8% interest isn't enough compensation for the pain and anxiety he has suffered

As Mr P didn't agree with what our Investigator said, this matter has been 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.

Having done that, I've decided to uphold Mr P's complaint in part. I'll explain why.

Account review and closure

Banks in the UK are strictly regulated and must take certain actions in order to meet their legal and regulatory obligations. They are also required to carry out ongoing monitoring of an existing business relationship. That sometimes means banks need to restrict, or in some cases go as far as closing, customers' accounts.

Having carefully reviewed HSBC's reasons for placing Mr P's account under review and placing restrictions on it, I'm satisfied it has acted in line with obligations placed upon it.

A bank is entitled to close an account just as a customer may close an account with a bank. But before a bank closes an account, it must do so in a way, which complies with the terms and conditions of the account.

As this account was a *basic* account, HSBC is expected to pay regard to provisions as contained in the Payment Accounts Regulations 2015 ("PAR 2015"). Regulation 26(2) says a provider of a basic bank account can close it if one of a number of conditions are met:

- (a) the consumer has knowingly used, or attempted to use, the payment account for illegal purposes;*
- (b) there has been no transaction on the account for more than 24 consecutive months;*
- (c) the consumer provided incorrect information when applying for the account, and had the correct information been provided, the application would have been refused;*
- (d) the consumer is no longer legally resident in the European Union;*
- (e) the consumer has access to another payment account in the United Kingdom which —*
 - (i) allows the consumer to make use of the services listed in regulation 19(1); and*
 - (ii) was opened after the payment account with basic features;*
- (f) the credit institution considers that the consumer's conduct in relation to the credit institution's staff amounts to the commission of an offence under —*
 - (i) section 4, 4A or 5 of the Public Order Act 1986;*
 - (ii) the Protection from Harassment Act 1997;*
 - (iii) section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening or abusive behaviour);*
 - (iv) Article 9 of the Public Order (Northern Ireland) Order 1987 (use of words or behaviour or display of written material);*
 - (v) the Protection from Harassment (Northern Ireland) Order 1997.*

I note our Investigator said that as Mr P had another bank account, HSBC acted fairly and in line with any obligations by closing the basic bank account. Mr P says he didn't have another bank account at that time.

It's not clear when Mr P was able to open his new e-money account with a separate provider, but I note he told our Investigator on 21 July 2021 the account was open and that it allows him to have his benefits paid into it and direct debits paid out of it. This of course is closely proximate to when HSBC decided to close Mr P's account.

At this point, I must make it clear that I'm under no obligation to give reasons why HSBC decided to review and subsequently close Mr P's account. But I'm satisfied from the information I've been given that HSBC have acted fairly and reasonably in closing Mr P's basic account with specific regard to the above regulations.

Even if I accept Mr P didn't have another account open at the time HSBC decided to close his account, from the information I've seen HSBC acted fairly in closing the account based

on the conditions it needed to meet as contained in PAR 2015 – see above.

In addition to this, I have carefully reviewed the terms of the account, which I'm persuaded HSBC have fairly applied here.

Investigation delays

HSBC accept its investigation into this matter took much longer than it should have. I note there's some conjecture as to how long this delay could have been avoided. Having looked at the timeline of events and the information given to me by HSBC and Mr P, I can't say with any certainty precisely how much of any delay could have been prevented.

But what is clear is that any time saved would have reduced the distress and inconvenience caused to Mr P. When weighing up what fair compensation for this would be, I must consider the impact HSBC's delays have had on Mr P.

To that end, Mr P has sent us information from his doctor which shows he was under medical investigation around the time and needed further assessment. It also shows Mr P was suffering from anxiety that he may have an underlying serious disease. It's in relation to this Mr P says the money HSBC were holding would have helped him get a private referral and consultation much sooner.

Though this isn't conclusive evidence Mr P did have, or likely had, a serious illness, I can see why not being able to get the matter looked into quickly and privately exacerbated his distress and anxiety. So this is something I will place some weight on when making an award for compensation.

Given HSBC were closing Mr P's basic bank account, I think it ought to have done more to check the best method of payment to pay Mr P's balance to him. So by sending him a cheque, it caused further delay by a few weeks.

Direct debits and parking fines

There is also some ambiguity around when and who cancelled the two direct debits on Mr P's account. And, importantly, whether HBC told Mr P that despite his account being restricted they would still be paid.

The evidence I've been given by both parties isn't conclusive as to when the direct debits were cancelled and by who. HSBC have accepted they were cancelled by its system.

Mr P has given us generic schedules which show what late payments he would have been charged by the two respective companies. But he hasn't shown clear evidence that he was charged an exact amount either by way of statements or letters from these businesses. Mr P has however said he has incurred fees of £40.

HSBC doesn't have any evidence either of a call note or branch contact notes which show whether it told Mr P his direct debits would continue to be paid despite the restriction. Our Investigator said that, on balance, they think Mr P was told this by HSBC's staff as otherwise he would have taken steps to mitigate any financial loss.

I can see why they said this, but ultimately there isn't enough evidence either way to make a finding on this. Despite that, and if I take what Mr P says at face value, this is something I will consider when awarding any compensation.

Mr P says because of HSBC restricting his account, he had to park outside his most nearby

branch to access his money due to his disability. I've already said HSBC's actions in placing the account under review and placing restrictions on it were done so fairly. I'm also persuaded Mr P going into the branch to identify himself to access any money wasn't an unreasonable measure given HSBC's concerns.

Having said that, Mr P would probably not have had to do this for as long as he did before his account was closed if delays were avoided by HSBC. I don't think HSBC are however liable for any parking fines he incurred. HSBC does not have a car park of its own and any accessibility or disability provision would therefore be the responsibility of the local authority given he had parked on a public road.

Mr P's official parking badge would also have given him access to parking on single and double yellow lines.

Putting things right

In making a compensation award, I need to consider, as I've said above, what delays HSBC were likely to have caused, the impact this had on Mr P given his anxiety around his health and by getting access to private healthcare sooner. I also need to think about the £40 fees he says he incurred because of cancelled direct debits he was told would be paid.

Given the delays HSBC caused wouldn't have been for the entirety of the period the account was under review, I think £700 that was recommended by our Investigator is at the upper end of any award I would make. I note HSBC accepted this award recommendation.

This amount is probably more than I would ordinarily look to award. But I'm satisfied awarding the same amount along with 8% from when the account was placed under review to when the funds were returned would fairly incorporate compensation for any direct debit fees Mr P incurred, and for the time he was deprived of his funds.

To put things right, HSBC UK Bank Plc must:

- Pay Mr P £700 for the distress and inconvenience he's been caused, and any financial loss he's suffered
- Pay 8% on the money it held in the account from March 2021 up until the funds were released to Mr P

My final decision

For the reasons given above, I uphold this complaint in part. I now direct HSBC UK Bank Plc to put things right as above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 27 May 2022.

Ketan Nagla
Ombudsman