



The complaint

R, a limited company, complains HSBC UK Bank Plc delayed progressing an application for a business account, and then unfairly refused to provide an account without saying why. R says it lost out on investment opportunities for which it wants to be compensated.

What happened

Our investigator discussed the events which led to R's complaint in their view. Those events are not in dispute, so I find no need to repeat everything again here. But in summary Mr H is the director of R. He, along with another director, who has since resigned, set up R to make property investments in 2020. Both he and the former director are longstanding HSBC personal account holders, so they thought applying for a business account with HSBC made sense.

R applied for an account in August 2020, but, unfortunately, the application wasn't progressed due to a system error. R reapplied for the account and eventually HSBC declined the application in April 2021. During this time Mr H raised two complaints – one in February 2021 about the length of time HSBC were taking, and another about HSBC not providing a clear reason as to why the second application was declined. Mr H says R lost out on multiple investment opportunities which caused it financial loss and led to the breakdown of his business relationship with the other director who resigned from R.

While the complaint has been with our service, HSBC offered £200 for the delay they caused R. The offer was put to Mr H, which he rejected.

Our investigator considered the complaint and decided the offer was fair and reasonable. They found HSBC should not be held responsible for R's decision not to go elsewhere to make the investments. It was R's choice to persist with HSBC despite HSBC being under no obligation to provide an account. Requiring HSBC to pay the losses R experienced by not making investments was not reasonable in these circumstances.

Mr H disagreed with our investigator. He says he relied on HSBC advising him the issues with R's application would be resolved, so it didn't make sense to go elsewhere. He asked for a final decision from an ombudsman, and the complaint has been given 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.

I have decided the offer HSBC made is reasonable compensation to make up for the inconvenience R was caused by HSBC taking too long to decide whether to provide a business account. But I am not awarding any further redress for financial loss R says it experienced because it didn't have an account to use for investments. I'll explain why.

HSBC had no obligation to provide R with a business account or to provide an account when R wanted. Mr H believed HSBC would have no problem providing R with an account given

his and the former director's long-standing relationship with HSBC as personal account holders. But whether he and the former director thought an account was a formality, HSBC still had a broad commercial discretion to decide whether to provide one, and they were entitled not to offer one.

I have not seen evidence to show HSBC told Mr H they would provide an account to R or that the administrative error which occurred meant R's application would go on to be approved. Mr H may have thought everything would be okay, but this isn't the same thing.

HSBC acknowledged the first application wasn't progressed when it should have been. And I agree they failed to take the due care that I would expect. But, ultimately I don't find it fair to hold HSBC responsible for R's failure to act to ensure R could make investments. Mr H and R's former director made a business decision to predicate making investments only on HSBC providing an account, but HSBC had given no undertaking to ensure R would be able to make those investments. In these circumstances, while the service HSBC provided should have been better, I find holding HSBC liable for R's failure to make investments by other means would be unreasonable. Instead, I find these are losses R should bear.

Mr H understandably wants to know why HSBC declined R's application. But HSBC does not need to reveal why they decided not to offer an account. They are entitled to treat their reason(s) as confidential, so I won't be revealing those reason(s) by virtue of R making a complaint. I have, however, considered why HSBC declined the account and I find they acted within the commercial discretion they have, and that they didn't act unlawfully.

Mr H no doubt experienced personal distress and inconvenience trying to open an account for R. The account application process took a long time and I imagine he was frustrated when the first application wasn't progressed, and further frustrated when the second application was declined. But these are not losses I can consider in relation to R. R is a limited company, which means it is a separate legal person to Mr H by virtue of incorporation, so I can only consider losses experienced by it as the eligible complainant under the rules we must follow.

Mr role in awarding compensation is not to punish HSBC for making a mistake irrespective of its profile as a well-known retail bank. Fines and penalties are the remit of the financial regulators.

Ultimately R was likely inconvenienced by the delay HSBC caused. But I find the delay did not reasonably prevent R from going elsewhere to make investments. So, in these circumstances, I find £200 represents a fair sum to make up for the other operational difficulty HSBC may have caused R.

R's directors were the controlling mind for R, and it was for them to decide what to do when an account from HSBC had yet to transpire. While HSBC should where possible consider their customer's interests, I don't think it fair to hold HSBC responsible for the choice R's former director made to leave because an account hadn't been opened when they expected.

Putting things right

Subject to R accepting my final decision, I direct HSBC UK Bank Plc to pay £200 to R.

My final decision

I have decided to uphold R's complaint for the reasons I have given above.

Under the rules of the Financial Ombudsman Service, I'm required to ask R to accept or reject my decision before 26 April 2022.

Ombudsman