

The complaint

Mr M is a sole trader. He complains that HSBC UK Bank Plc treated him unfairly when it closed his business account and withdrew his Bounce Back Loan ('BBL').

What happened

Mr M told us:

- He had a business account and BBL for £50,000 with HSBC. In December 2020, the bank restricted his account without telling him why, which caused his direct debits to go unpaid.
- In February 2021, HSBC closed his account with 60 days' notice but didn't give him a reason for this decision, which he felt was unfair.
- HSBC used the credit balance of around £35,000 in the account to repay some of the BBL and demanded repayment of the rest. He didn't think it was fair for the bank to do this, especially as some of the money had been borrowed from his family.
- The bank had been chasing him for repayment of the overdrawn account, but this was unfair as it was due to the charges incurred as a result of the bank not paying his direct debits.

HSBC told us:

- It had restricted and closed Mr M's account after undertaking an account review.
- It made the commercial decision to exit the relationship with Mr M, which was in line with its terms and conditions.
- It applied the right of set off to use the credit balance in Mr M's account against the outstanding balance on the BBL. So Mr M now needed to repay around £15,000 rather than £50,000.
- Its collections agents had contacted Mr M as his account remained overdrawn due to the charges from the bounced payments. The agents would stop calling Mr M once they had made contact and agreed a way to repay the outstanding balance.

Our investigator didn't think HSBC had done anything wrong in restricting Mr M's account, then closing it and offsetting the credit balance against the BBL as the bank had acted in line with its terms and conditions in doing so. She also said it was reasonable for HSBC to undertake ongoing checks on the account and BBL as part of its regulatory obligations.

However, she said HSBC hadn't closed Mr M's account in the timescale agreed which meant the account had accrued charges despite Mr M not being able to use it. So she recommended the bank repay Mr M what he'd paid in charges so he could close the account and pay him £100 compensation for the inconvenience he'd been caused by this.

HSBC didn't agree it had done anything wrong but said it would accept the recommendation as a gesture of goodwill.

Mr M didn't accept the view as he wanted to know the reasons behind HSBC's decision and for the credit balance to be returned, with compensation for the impact this had on his business and the distress it had caused him. As an agreement couldn't be reached, the case 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 so, I've reached the same outcome as our investigator.

Mr M is unhappy that HSBC restricted his account and didn't tell him the reason for its decision. As a bank, HSBC has certain legal and regulatory obligations that it needs to comply with. HSBC is able to use its commercial discretion in deciding how it will meet these obligations, and what checks it will undertake. HSBC's account terms say that the bank can, in certain circumstances, withdraw any service or close an account either by giving 60 days' notice, or with immediate effect and without notice, if it reasonably believes it has cause to do so. The account terms then give various examples for when the bank may choose to use these options.

HSBC has provided us with the information on which its decision to restrict, and then close Mr M's account was based. And having reviewed this, I'm satisfied that it was reasonable for the bank to take this action in line with the account terms and conditions. I recognise Mr M is unhappy he hasn't been provided with any detail about the reason for the bank's decision. But the bank doesn't need to disclose any more information than it already has, and I won't be asking it to do so.

HSBC's review also led it to terminate the BBL agreement. The bank had the power to do so in certain circumstances and I don't think it did anything wrong in taking that action in light of the findings of its review.

Mr M also feels it's unfair that after he gave the bank notice that he wanted to close his account, HSBC recalled the BBL and used the available funds in the account to offset against the outstanding balance. But I don't agree. HSBC's general terms and conditions for its accounts allows the bank the "right of set-off". This means that any funds held in accounts in Mr M's name could be used by HSBC to repay or reduce any amounts he owed on any accounts with the bank. So it didn't do anything wrong in using the funds in Mr M's account to reduce the outstanding balance on his BBL.

I can see that after HSBC gave Mr M the 60 days' notice in February 2021, meaning that it was going to close his account in April 2021, it didn't actually do so. I've also seen that there was an outstanding debit balance on Mr M's account which prevented the bank from closing the account. HSBC said it was still looking for Mr M to clear the overdrawn balance as requested and had passed this to its collections department to liaise with Mr M on how he intended to do so. However, Mr M told us that due to his account being restricted, his direct debit payments were returned unpaid and as a result of this, charges were applied which caused him to go overdrawn, which he then had to repay on a monthly basis which was unfair.

Looking at the evidence from both parties, I can see that Mr M was in the process of opening an account with another bank – which he'd made HSBC aware of. Given that HSBC had decided it was going to terminate its banking relationship with Mr M and use all of the funds held within the account towards repaying the BBL, I think it should have closed his account immediately. This would have meant the bank couldn't apply charges to Mr M's account

therefore taking the balance overdrawn- which it then proceeded to request he repay. I recognise HSBC may say that it was assisting Mr M in giving him 60 days' notice, however it restricted his account with immediate effect so the notice period was of no benefit – particularly as Mr M didn't know his regular payments wouldn't be made as a result of the bank's actions.

Based on the evidence I've seen, whilst I recognise HSBC acted in line with its terms and conditions, I don't think it was fair that Mr M ended up in an overdrawn position in the circumstances. HSBC has – albeit as a gesture of goodwill - offered to refund Mr M the £137.50 he had paid towards the account charges and pay him £100 compensation. I think that's a fair way to put things right.

My final decision

HSBC UK Bank Plc has already made an offer to pay Mr M £100 compensation and reimburse him the £137.50 account charges to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that HSBC UK Bank Plc should pay £237.50.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 February 2023.

Jenny Lomax
Ombudsman