

## **The complaint**

Mrs C complains that HSBC UK Bank Plc returned her funds to source, and used her remaining funds to repay her credit card debt. She'd like the funds repaid and compensation for the impact.

## **What happened**

Mrs C had several accounts with HSBC.

In April 2020 Mrs C received £500 into her current account. In May 2020, HSBC received a fraud report regarding the payment. And after investigating they decided to return the funds to source.

In November 2020 HSBC made the decision to close Mrs C's accounts. They also decided to use Mrs C's available balance – £1,873.86 – to set off some of her credit card balance.

Mrs C complained to HSBC but on reviewing her complaint they thought they'd acted fairly.

One of our investigators looked into Mrs C's complaint but they didn't uphold it. They asked Mrs C what the £500 payment was for, and Mrs C advised it was for a mobile phone she'd sold via an online reselling platform. Mrs C explained she sold the mobile phone for £1,000 and hand delivered it to the buyer. She provided a hand-written note, and screenshots from her selling account.

However, our investigator wasn't satisfied with the evidence provided to show Mrs C was entitled to the funds. So they didn't think HSBC should do anything more.

Mrs C wasn't happy with our investigator's view, and in response argued that she had thousands of pounds in her accounts and should be reimbursed this as well as the payment for the mobile phone.

As Mrs C didn't agree the case was passed to me for a decision.

On reviewing Mrs C's case I asked HSBC for more information regarding the use of the funds in Mrs C's account. Specifically I asked for more detail to show what HSBC relied on to make the decision to use Mrs C's funds to pay off some of her credit card balance. I explained that between May and October 2020 Mrs C made the minimum payment towards her credit card. And before using the right to offset, I'd expect HSBC to be able to demonstrate Mrs C wasn't making the minimum payment, and repayment was being chased as outlined in best industry practice guidance. And I also highlighted that the majority of the funds used from Mrs C's current account, £347.19, were benefits.

HSBC reviewed their decision to use Mrs C's benefits, and concluded this wasn't fair. They decided to offer Mrs C the full value of the benefits she received just prior to the account closure – not just the amount used to offset Mrs C's credit card. In total they offered £629.33.

HSBC also asked for Mrs C to make an arrangement to repay her outstanding credit card debt of £2,687.21.

I explained to Mrs C that I wouldn't be asking HSBC to repay the funds they'd returned to source – and I advised her of the offer from HSBC. Mrs C accepted that the £500 wouldn't be returned. However, she didn't accept the offer, and she highlighted they didn't only use £347.19 of her funds instead she had thousands of pounds in her account.

I considered Mrs C's response – and I agreed that in total £1,873.86 was used to pay off part of Mrs C's credit card across her four accounts. I considered whether this should be refunded to Mrs C – but I didn't think it should as this would lead to an increase in Mrs C's outstanding debt. I explained that I thought HSBC should pay Mrs C £600 for the inconvenience caused to her, plus return the £347.19 plus 8% interest from 26 November 2020 to the date of repayment.

HSBC accepted my recommendation, but Mrs C didn't.

In response she said:

- HSBC shouldn't have used her funds
- Some of the funds, £1,000, were an inheritance from her Grandmother
- She'd have made regular payments to repay the debt if they'd returned her funds
- It ruined her families' Christmas – and doesn't believe the compensation is enough

As Mrs C didn't accept my thoughts, I've reviewed my conclusions.

### **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.

Mrs C has now accepted that HSBC acted fairly in returning her funds to source, so I won't consider this any further.

I've firstly considered HSBC's actions in closing Mrs C's account. And having done so I think they acted fairly here. And I'll explain why. To close an account immediately HSBC need to evidence they've complied with the terms and conditions of an account. And I'm satisfied they've done so.

HSBC have accepted they acted unfairly in using Mrs C's available funds to offset part of her credit card. I've considered whether I think HSBC should repay the entire balance used, £1,873.86, but I don't think it should. I say this because the funds were used to pay off an outstanding balance, and if the funds are removed from Mrs C's credit card balance then her debt will increase - causing her, as a vulnerable consumer, more detriment.

However, I do think HSBC should refund the benefits taken from Mrs C's current account totalling £347.19, plus 8% from the date the funds were taken to the date of repayment.

I've thought about the impact of HSBC's actions on Mrs C. Part of the distress caused would have been due to HSBC's decision to close Mrs C's accounts and return £500 to source - which I regard as fair. So I need to take this into account in my conclusions. However, Mrs C was also deprived of £347.19 from her benefits, and £1,873.86, just before Christmas 2020. Mrs C explained how this impacted her mental health and ability to care for her children.

In Mrs C's response she argued that HSBC shouldn't have used her funds to pay the debt, they hadn't accepted responsibility until now and the level of compensation wasn't sufficient for the impact on her and the errors they made.

I've considered Mrs C's arguments. My role isn't to punish HSBC for their failings, instead I need to assess the impact of their actions. And I'm satisfied Mrs C was caused significant inconvenience and distress during Christmas 2020 because of HSBC's actions. For the distress and inconvenience caused to Mrs C I think £600 compensation is fair.

Mrs C has an outstanding balance on her credit card of £2,687.21. I'd encourage Mrs C to make contact with HSBC who have a responsibility to treat her positively and sympathetically when arranging an affordable repayment plan.

### **Putting things right**

For the reasons I've outlined above I think HSBC should compensate Mrs C £600, plus return the £347.19 and pay 8% from 26 November 2020 to the date of repayment. HSBC are entitled, if they wish, to remove the £347.19 from Mrs C's credit card balance.

### **My final decision**

My final decision is I direct HSBC UK Bank Plc to:

- Repay Mrs C £347.19 plus 8 % interest from 26 November 2020 to the date of repayment.
- Pay Mrs C £600 in compensation for the impact caused to her

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 6 January 2023.

Jeff Burch  
**Ombudsman**