

The complaint

Mr Z complains that HSBC UK Bank Plc closed his account and loaded a fraud marker against his name. He'd like the fraud marker removed and compensation for the impact.

What happened

Mr Z had a personal account with HSBC. He's also the director of a limited company I'll call F.

On 4 July 2021 HSBC restricted Mr Z's access to his account.

On 5 July 2021 HSBC issued Mr Z with a letter advising him his account would be closed. The bank also decided to load a negative fraud marker against Mr Z on the national fraud database.

Mr Z complained to HSBC about their decision to restrict access to his funds, close his account and load a fraud marker. HSBC looked into Mr Z's complaint but didn't uphold it – they thought they'd acted fairly in closing his account, and restricting access to his funds.

Between 30 July 2021 and 20 August 2021 HSBC gradually released Mr Z's funds to him. Prior to this Mr Z made several attempts to contact HSBC regarding his inability to access his funds. He explained that this caused him severe distress and he wouldn't be able to make his mortgage payments.

Mr Z wasn't satisfied with HSBC's response to his complaint, so complained to our service. One of our investigator's looked into his complaint. They thought our service didn't have the power to look into the fraud marker, because this was loaded due to Mr Z's role as a director of F. And they thought HSBC had acted fairly in closing Mr Z's account – but they should have released his funds sooner. They thought HSBC should pay Mr Z £150.

HSBC agreed, but Mr Z didn't.

As Mr Z didn't agree, it's been passed to me for a decision.

After reviewing Mr Z's case I reached a slightly different conclusion to our investigator. I explained to HSBC that I thought Mr Z's funds should have been released within seven days of HSBC's decision to close his account. And I thought that Mr Z lost the opportunity to use his funds and HSBC should therefore pay Mr Z 8% on the funds from 12 July 2021 to the date the funds were released. Along with £150 compensation for the inconvenience caused. I gave HSBC until 10 September 2022 for any further comments.

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.

Fraud marker

Mr Z's complaint is in two parts – and I'll look at the element our investigator thought we couldn't consider first. I'm afraid that I'm satisfied our investigator reached the right conclusion here, namely that our service doesn't have the power to consider this part of Mr Z's complaint. Our service can only consider complaints from 'eligible complainants'. Firstly to be an eligible complainant usually a complaint needs to arise from something that the business did or didn't do to Mr Z – however the fraud marker was loaded because of something which occurred on *F's account*. Secondly, an eligible complainant is someone who isn't carrying out activity relating to their work or business – and Mr Z's complaint about the fraud marker has come about because of his role as a *director of F*.

I understand this will disappoint Mr Z but for the reasons I've outlined above I don't have the power to consider his complaint about the fraud marker.

Account closure and funds restriction:

I've looked at the terms and conditions of Mr Z's account – specifically section 23. HSBC are entitled to close any account by providing 60 days' notice, but to close an account with less notice than this they'll need to meet the specific terms listed for *immediate* closure. I realise this will disappoint Mr Z but having reviewed these terms I'm satisfied they've done so. Although HSBC made the decision to close Mr Z's account on 5 July 2021 they didn't fully release his funds until 20 August 2021. I've reviewed the case notes provided by HSBC, and accept that a certain amount of time to review Mr Z's account was required before releasing his funds. However, I've not seen evidence which explains the length of time HSBC took to release Mr Z's funds – with some funds taking over six weeks to be released to him. I think Mr Z's funds should have been released *much* sooner – and within seven days of HSBC's decision to close his account.

Mr Z hasn't provided any additional evidence to our service to demonstrate the impact on him. But I'm satisfied this likely caused Mr Z significant distress and anxiety – with the first set of funds not being released to him until 30 July 2021.

Putting things right

Mr Z's funds should have been released within seven days of HSBC's decision to close his account. I'm satisfied that Mr Z consequently lost the opportunity to use his funds and HSBC should therefore pay Mr Z 8% from 12 July 2021 to the date the funds were released.

In addition I think HSBC should pay Mr Z £150 compensation for the stress and anxiety caused to him.

My final decision

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

- Pay 8% interest on the funds in Mr Z's account from 12 July 2021 to the date of release
- Pay Mr Z £150 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 8 October 2022.

Jeff Burch

Ombudsman