

## The complaint

Mr C says HSBC UK Bank Plc, trading as first direct, incorrectly refused to refund a payment and raise a direct debit indemnity claim for him.

## What happened

Mr C's energy supplier incorrectly took a payment for £1,848.43 by direct debit on 16 November 2021 – he usually paid around £150 a month. Mr C contacted HSBC on 24 November 2021 for assistance, but it told him the direct debit guarantee could not be relied on as the beneficiary had ceased trading. It told Mr C Ofgem recommended customers in such situations should not cancel their direct debits but wait until an account with their new account is set up. Any credit balance would be protected and paid back.

On 17 December 2021 HSBC wrote to Mr C explaining that this policy had changed following the outcome of a complaint to the retail interbank payments standards body, Pay.UK. It asked him to get in touch if he wished to proceed with a claim, but by this stage Mr C has resolved the issue with the administrators of the energy supplier directly. On 28 December 2021 HSBC accepted that it had initially provided the wrong advice to Mr C and paid £50 compensation for the inconvenience caused.

Our investigator did not uphold Mr C's complaint. He said HSBC had acknowledged its error and he felt the £50 compensation was fair in the circumstances.

Mr C was unhappy with this assessment and asked for an ombudsman's review. In summary, he said a number of points he raised on the call of 7 January 2021 with the investigator had not been adequately considered. He never disagreed with what the Ofgem advice was - but he was worried as a large sum had been incorrectly taken and he was concerned the evidence of this payment might go missing in the transfer process. He feels no consideration has been given for the impact this situation had on his state of mind and time, it seemed like HSBC was trying to deceive him with its misinformation and incomplete replies.

I reached a different conclusion to the investigator and planned to uphold the complaint in part, so I issued a provisional decision. An extract follows and forms part of this decision.

### *Extract from my provisional decision*

*I am planning to uphold Mr C's complaint in part as I don't think suitable compensation as been paid.*

*It is not in dispute that HSBC provided incorrect advice, more than once, about the ability to claim under the direct debit guarantee when a company ceases to trade. It acknowledged this in its letter of 28 December 2021 to Mr C saying that 'we are aware we were providing incorrect information regarding Direct Debit Indemnity claims for companies who have gone into liquidation or administration. I confirm the correct information has now been cascaded to all areas of the bank.' And I also agree with Mr C, the bank made somewhat unhelpful references to 'the companies [sic] terms and conditions' in its email of 10 December 2021*

*when explaining its initial position.*

*But whilst I agree this was unacceptable and poor service, I haven't been able to find any other evidence to support Mr C's testimony that the bank's behaviour was blatant deception. HSBC accepted that its advice about the direct debit guarantee was incorrect and apologised. It confirmed a claim could be progressed. But Mr C had fortunately been able to secure a refund in the meantime, after he had done a significant amount of research and spoken to a number of different organisations.*

*With regards his point that HSBC's actions were deliberately fraudulent at a corporate level, as we are not the regulator we do not have power to investigate alleged systemic issues. That is the role of the Financial Conduct Authority. We have the power to look at the merits of individual complaints and to ensure any errors a bank makes are put right for the individual consumer impacted. I would add here that HSBC has provided evidence that it issued revised internal advice on 15 December 2021. This set out a process change for direct debit indemnity claims specifically for energy companies that had gone into liquidation, correcting its previous position.*

*With regards the appropriate level of compensation, I find the bank should pay Mr C a further £50 to compensate him for the avoidable stress and inconvenience caused. This is my conclusion based on the value of the transaction involved, the time Mr C remained misinformed and the work he had to do to get his money back. Mr C argues the only reason the refund was secured quite quickly was due to his actions – and I agree. But we always consider what a customer could have done to mitigate any potential losses when making awards.*

Both parties responded before the deadline. HSBC accepted the findings set out above.

Mr C said he now felt his concerns had been fully considered, but he still feels the bank should be chastised for what he sees as deliberately providing misleading information.

### **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.

As neither party provided any new evidence it follows I have no grounds to change the findings or outcome I set out above. I understand Mr C still feels the bank was deliberately misleading but as I have said previously, I could find no other evidence to support his testimony.

It follows I find HSBC should increase the compensation it has paid to Mr C, but take no other action.

### **Putting things right**

HSBC must pay Mr C a further £50 compensation.

### **My final decision**

I am upholding Mr C's complaint in part. HSBC Bank UK Plc, trading as first direct, must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 October 2022.

Rebecca Connelley  
**Ombudsman**