

## **The complaint**

Mr B has complained that HSBC UK Bank Plc ("HSBC") mis-sold him and his late partner a fee-paying Advance account in 2011.

Mr B says that it was mis-sold as he subsequently found out that he could not use the benefits of the account.

## **What happened**

I issue a provisional decision upholding this complaint. I have included an extract of my provisional decision below:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*We've explained our approach to complaints about packaged bank accounts on our website and I've used that to help me decide this complaint. Having done so, I provisionally think the Advance account was mis-sold to Mr B. Let me explain why.*

*I've started by considering whether or not Mr B was given a fair choice in opening the account. In this instance from what Mr B has said I am satisfied that this account was taken out in the knowledge that it was optional. I note that Mr B has said it was insinuated by HSBC that he could get a preferential rate on a mortgage and that it should have been highlighted that HSBC also offered similar rates to non-Advance account holders. Given the timescale involved it is difficult to see exactly how the mortgage rates compared, but my understanding is it that Advance account holders did get access to terms that differed to what was offered to normal account holders, so I don't think HSBC did anything wrong if it said this.*

*I will next consider whether a personal recommendation was made for Mr B to take out the account. My understanding of HSBC's sales processes at the time the account was taken out was that it did make a personal recommendation as to whether the account was right for a customer.*

*At the time that account was taken out the major insurance benefits were travel insurance and breakdown cover.*

*Mr B has explained and provided evidence that he drove a car which was over 15 years old and also rode a motorbike. At the time the account was recommended to Mr B neither of the above would've been covered under the breakdown cover. He also says that this led to two declined claims.*

*Mr B has also said that his late partner would not have been covered under the travel insurance policy as she was being treated for cancer at the time of the sale. Firstly, I would like to pass on my sympathies for the loss of his Partner. In relation to the travel insurance it is possible that the condition that she suffered from would not have been covered though it is possible that with a medical screening cover could have been arranged.*

*That said though as this was an advised sale I can't see how recommending an account with main benefits of travel insurance and breakdown cover was suitable given that the consumers could not use the breakdown cover and likely could not use the travel insurance.*

*I note that the sales documents which likely were provided during the sales process would've highlighted the above. But this does not obviate the need for advice to be reasonably suitable given a consumer's circumstances at the time. Had this account not been recommended I don't believe that the upgrade would've happened. So I think that recommending this account caused a financial loss which HSBC need to put right.*

### **putting things right**

*To put things right for Mr B, HSBC should do the following.*

- *refund Mr B all the fees he has paid for the Advance account,*
- *add interest to each of these refunds at the rate of 8% per year (simple) from the date Mr B paid the fee until the date it makes the refund*

*HM Revenue & Customs requires HSBC to take off tax from this interest. HSBC must provide a certificate showing how much tax it has taken if requested.*

*If HSBC can show that Mr B gained financially from the banking benefits that came with the Advance account (such as the cheaper overdrafts), then it may deduct the relevant amount from the compensation it works out as above. If it chooses to do this, then it must set out its calculation clearly."*

In response to this provisional decision HSBC in summary said the following

- that it did not believe that the sale of the advance account was carried out on an advised basis.
- That Mr B did not mention the sale was advised.
- That when Mr B took out a mortgage a year later he chose a non-advised sale
- Mr B travelled shortly after the sale of the account and therefore could have made use of the travel insurance

Mr B did not add anything further in response to the provisional decision.

### **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.

HSBC has said that it did not believe that this sale was advised and that Mr B did not mention that advice was given. Firstly I should clarify that Mr B did indicate that the account was recommended to him. Secondly my understanding of HSBC's sale process at the time was that an individual review would likely have been carried out and we have established that we believe that these individual reviews constitute, for the most part, as an advised sale.

In any event the branch procedures from the time of the sale state that the member of staff before proceeding with the sale of the account must establish that the customer is eligible for the major benefits of the account. It also states that if the customer is not eligible this must be explained to the customer. It goes on to explain that if a customer has pre-existing medical conditions these must be disclosed to the insurer before completing the sale.

I have explained in my provisional decision that Mr B's partner (the joint account holder) was receiving treatment at the time of the sale for cancer. Had HSBC's own branch procedures been followed I don't think this sale would've continued as I find it unlikely that Mr B's partner would have been covered. So overall, I am satisfied that this was an advised sale and even if it were not, HSBC's own procedures were not followed in that it did not properly establish the suitability of the account for Mr B and his partner. Had it done so, I find it unlikely that Mr B would've taken out the account given that his partner would likely not have been covered under the travel insurance and for the reasons set out above, he would not have been covered under the breakdown cover.

In relation to the mortgage sale, I don't think whether the mortgage was arranged on an advised, or non-advised basis is especially relevant to whether the packaged account, which was sold to Mr B a year earlier, was sold in an advised manner.

Finally, Mr B travelling shortly after the sale is again not relevant to whether the sale was carried out correctly. Yes it is true that Mr B and his partner may have been *attracted* to the benefits of the account, but this does not mean it was suitable if they were not in fact covered by those benefits.

### **Putting things right**

To put things right for Mr B, HSBC should do the following.

- refund Mr B all the fees he has paid for the Advance account,
- add interest to each of these refunds, at a rate of 8% per year (simple) from the date Mr B paid each fee until the date it makes the refund\*

\*HM Revenue & Customs requires HSBC to take off tax from this interest. HSBC must provide a certificate showing how much tax it has taken if requested.

If HSBC can show that Mr B gained financially from the banking benefits that came with the Advance account (such as the cheaper overdrafts), then it may deduct the relevant amount from the compensation it works out as above. If it chooses to do this, then it must set out its calculation clearly to Mr B.

### **My final decision**

For the reasons set out above it is my decision that I uphold this complaint and therefore HSBC UK Bank Plc should pay Mr B the redress detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 February 2023.

Charlie Newton  
**Ombudsman**