

## **The complaint**

Miss H has complained HSBC UK Bank plc provided inadequate compensation following costs she incurred after being a victim of fraud.

## **What happened**

In August 2021 Miss H's account with HSBC was compromised. Three payments and two internal transfers – from her children's HSBC savings accounts – were completed without Miss H's authorisation on 24 August.

Miss H phoned HSBC as soon as she got a text from them confirming her account was in overdraft and interest would be charged. Despite three calls to them, she wasn't able to get the fraud issue clarified to her satisfaction. She drove to her local branch to get things sorted.

Whilst at the branch, Miss H made it clear how upset she was about what had happened. Because of her personal circumstances, she was concerned about the threat of being in overdraft and paying additional charges. She asked HSBC to ensure her direct debits and regular commitments were cancelled, as she was worried she wouldn't be able to use her incoming payments – including child benefit, universal credit and personal independence payments – which she needed for everyday living costs.

A week later, Miss H went back to her branch as she'd not received anything to confirm her fraud claim had been sorted. The branch manager confirmed her direct debits hadn't been cancelled. Miss H insisted the remaining funds in her account be given to her. She also provided HSBC with evidence of bills she was currently unable to repay.

Another week went by. Miss H went back to the bank. She was increasingly upset and concerned that things hadn't yet been sorted. The situation within the branch deteriorated and the branch staff called the police to try and calm Miss H down. Miss H felt humiliated and concerned about the impact this was having on her young children, who were with her.

On 13 September HSBC refunded £3,710 to Miss H's account. In October they accepted they'd not provided a response to her complaint within timescales and paid £50 into her current account.

Miss H didn't believe this was sufficient and brought her complaint to the ombudsman service. She wanted HSBC to reimburse her travel costs for three trips to her branch; childcare costs for the first two visits; parking and petrol costs; as well as bills she'd been unable to repay including a parking ticket, her mobile phone bill and Council Tax commitments.

Our investigator reviewed what happened and sympathised with Miss H. However she understood why HSBC, to protect its branch staff, felt they had no option but to call the police to branch. She also didn't believe the unpaid bills were caused by the fraud on Miss H's account. She also noted HSBC hadn't reimbursed Miss H in line with agreed timescales. She asked them to pay her a further £300 in compensation along with 8% simple

interest for the time Miss H had been without funds.

HSBC agreed with this outcome. Miss H didn't. She continued to feel her expenses should be paid. She's asked an ombudsman to review her complaint.

### **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. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to Miss H's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves. Other factors do apply but nothing else specific in Miss H's case.

Nobody disputes Miss H didn't authorise the two transfers and three payments. HSBC accepts Miss H should be refunded but didn't, in fact, refund her until 13 September. This was considerably longer than it should have taken HSBC. HSBC accept that to all intents and purposes any refund should be made immediately. Our investigator believed this merited additional compensation and asked them to pay Miss H £300. They agreed to do this.

I agree with our investigator that £300 compensation seems fair and reasonable for the problems Miss H had in getting her fraud issue sorted.

I've gone on to consider the issues Miss H raised about what happened as well as why her expenses were not repaid.

Firstly I completely appreciate how upset Miss H has been at what happened. I have taken this into account.

I'm aware Miss H's direct debits and regular payments weren't suspended as she requested. However I believe this would have caused potentially more issues with her having to repay those she owed money. I don't think HSBC acted unfairly here although they could have explained to her better why this wouldn't happen.

It was undoubtedly unfortunate HSBC felt they had no choice to call the police to branch to calm Miss H down. These are obviously difficult issues. I see Miss H felt she was being discriminated against as her health issues weren't fully considered by HSBC. On the other hand HSBC will have a clear policy on what happens when they believe staff could be threatened or being shouted at. It is common for retail outlets of all types to have a low tolerance for these events even though they can sometimes be resolved in other ways. So whilst I accept Miss H and her children were very upset by these events, it wouldn't be fair to criticise HSBC for taking these steps.

I have looked at Miss H's expenses. Like our investigator, I won't be asking the bills for non-payment to be paid by HSBC. The Council Tax bill is not in Miss H's name, and whilst I don't dispute she's paying this on her parents' behalf, arrears had already built up before the fraud on Miss H's HSBC account. The phone bill also pre-dates the fraud.

Miss H had also received the penalty charge notice before the fraud took place. Miss H hadn't paid this by 24 August although I believe she could have taken action to do so.

I know Miss H believed her phone had been compromised and ended up leaving this at her branch. I do find that action surprising but it's that which led her to having to buy a replacement phone. I'm not sure why HSBC should have to bear those costs.

And finally I've looked at the costs of childcare, parking and petrol during the period Miss H felt she had no choice but to attend her branch. I don't dispute Miss H had additional costs, although there is at least one HSBC branch closer to her than the one she attended. She was also – certainly for the first visit – with her mother. I know Miss H lives with her parents. I believe it's more than likely Miss H chose to do other things as well as visit her bank branch during those trips. I don't think overall it would be fair to ask HSBC to pay for those aspects.

### **Putting things right**

I am satisfied that the compensation HSBC has already paid (£15 on 28 September; £3,710 refunded on 3 October; and £50 on 21 October) is inadequate. I believe a further £300 is fair and reasonable. As well as compensating Miss H for the delay in getting her money refunded, this also covers any additional costs in going to the HSBC branch she chose to attend.

Miss H – and her two children whose savings accounts were “*robbed*” to pay for the payments out of Miss H's current account – were without funds for nearly three weeks. 8% simple interest should be paid to her for being without funds for that short period.

### **My final decision**

For the reasons given, my final decision is to instruct HSBC UK Bank plc:

- To pay £300 compensation to Miss H; and
- Add 8% simple interest to the amount defrauded for the period 24 August to 13 September 2021.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 23 June 2023.

Sandra Quinn  
**Ombudsman**