

The complaint

Mr M complains that HSBC UK Bank Plc delayed removing inaccurate information from his credit file, causing him significant financial loss.

What happened

In November 2020 two accounts were opened with HSBC in Mr M's name; a current account and a credit card account. In May 2021, while in the process of applying for a mortgage to buy a property, Mr M discovered that these accounts had been opened and contacted HSBC to say that he had not opened them himself.

HSBC accepted that Mr M had not opened these accounts, and they had been opened fraudulently in his name. It said it would close the accounts and remove any information regarding them from Mr M's credit file. The credit card was immediately removed from Mr M's credit file, but there was a delay in information about the current account being updated on Mr M's credit file with one of the Credit Reference Agencies.

Mr M says that because of this delay he was unable to complete on the property purchase before 30 June 2021, which meant that he missed out on the stamp duty holiday that was in place at the time, costing him over £12,500. HSBC did not agree that it was responsible for any delay, but Mr M remained unhappy, so he referred his complaint to us.

Our Investigator looked at what had happened and agreed that HSBC had caused a delay in the information on Mr M's credit file being updated. He recommended that HSBC pay Mr M £1,000 to recognise the impact of that delay. But the Investigator did not think that HSBC could fairly be held responsible for the entire financial loss that Mr M was claiming.

I issued my provisional decision on this case on 11 April 2023. HSBC did not make any new comments. Mr M responded to explain why he felt the loss incurred was his – rather than a loss for his limited company – and why he therefore still felt he should be reimbursed for this loss.

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.

In my provisional decision I explained the following:

“There appears to be no argument here that the two accounts in question were opened fraudulently and therefore are not Mr M's responsibility and should not be recorded on his credit file. The question then is whether HSBC caused a significant and avoidable delay in updating the information on Mr M's credit file, whether that delay is then the sole reason that Mr M was unable to complete the property purchase in time to take advantage of the stamp duty holiday, and whether HSBC can therefore be fairly held responsible for that loss.”

HSBC's notes show that Mr M made contact about the fraudulent accounts on 4 May 2021. HSBC sent him a letter a few days later confirming that the accounts had been opened fraudulently and that any applications would be cancelled and outstanding balances removed. I consider that this letter made it clear that the accounts were not Mr M's responsibility.

At this time HSBC also told Mr M it would take steps to update his credit file to remove any record of these accounts. It appears that the credit card account was removed relatively quickly, but the current account remained on Mr M's credit file with one of the credit reference agencies – which I'll call E. I've seen internal notes from E which show it was in communication with HSBC, but there seems to have been some confusion on HSBC's part and it told E on 19 March 2021 that the details on Mr M's credit file about that account were correct.

E then passed this on to Mr M who queried what HSBC had told E, so E went back to HSBC to ask for clarification. HSBC's response to E was that Mr M should contact its fraud team. Mr M was already in contact with the fraud team during this period. HSBC did not tell E to remove the record regarding this account until 1 July 2021.

With all this in mind, I consider that HSBC did cause a delay in information about the fraudulent current account being removed from Mr M's credit file. If it had responded accurately to E's queries then I think it is likely the information relating to the fraudulent account would have been removed much earlier.

Mr M has provided a copy of the mortgage offer, which included a clause that the arrears on his credit file must be removed before the mortgage would be agreed, and Mr M had told HSBC this was the case. He has also provided a letter from his solicitors confirming that all parties to the property purchase were ready to proceed and committed to completing by 30 June 2021 in order to benefit from the stamp duty holiday.

I agree that the evidence Mr M has provided suggests that the reason the property purchase did not complete on time is that there was a delay – caused by HSBC – in his credit file being updated.

However, under our rules I can only make an award to the eligible complainant. Here, the eligible complaint is Mr M. But the mortgage in question was not being taken out by Mr M himself, but by a limited company that he is a director of. And it therefore follows that the alleged loss incurred here – that the purchaser of the property (the limited company) had to pay additional stamp duty – isn't Mr M's loss (at least not directly). I appreciate that Mr M says he used his own personal funds to cover the stamp duty, but that does not change the fact that the loss was ultimately a loss for the limited company that he chose to use his personal funds to cover.

As the alleged loss is not the eligible complainants, it's not within my powers to require HSBC to reimburse it. It follows I cannot make an award for compensation in the way Mr M would like. But, this matter did cause Mr M a great deal of distress and inconvenience, and it is within my powers to make an award in recognition of that. And I am satisfied that the £1,000 our Investigator recommended, and that HSBC has now agreed to pay, is appropriate compensation in the circumstances.”

Mr M has responded to my provisional decision with some more detail about how the limited company was set up and funded. I appreciate that the company funds came from his and his wife's personal accounts, and I also understand that he paid for the stamp duty from his own funds. But the fact remains that the owner of the property – and the holder of the mortgage – was the limited company, a separate legal entity, and so regardless of how the stamp duty

was ultimately paid it was the limited company that was responsible for that payment and so the loss was incurred by the limited company. And as I explained, the limited company is not an eligible complainant for the purposes of this complaint, so I cannot make any award for the loss it incurred, even though it was Mr M who ultimately covered the stamp duty from his own funds.

I understand that this is not the answer Mr M was hoping to receive, but I remain satisfied that the £1,000 compensation our investigator recommended is fair and reasonable in all the circumstances of this complaint.

Putting things right

To resolve this complaint HSBC should pay Mr M £1,000

My final decision

I uphold this complaint, HSBC UK Bank Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 May 2023.

Sophie Mitchell
Ombudsman