

## **The complaint**

Mr R complains HSBC UK Bank Plc ("HSBC") restricted his accounts without warning or explanation. He also complains it closed his accounts, provided poor customer service, failed to deal with his subject access request as required, and didn't properly inform the relevant authorities of his previous account activity.

Mr R says HSBC's actions have caused him substantive distress, inconvenience and embarrassment. To put things right, he wants HSBC to pay him suitable compensation and formerly apologise for its failings.

## **What happened**

In early December 2021, following a review, HSBC blocked Mr R's accounts and gave him no warning that it was taking this action. Mr R says he only discovered this had happened when his debit card payments were being declined in local shops.

Mr R complained to HSBC. He adds that he wanted to know why HSBC had taken such action – but both in branch, and over the phone, he wasn't getting a satisfactory explanation. HSBC sent Mr R its response to his complaint on 17 December 2021. In it he was given referral rights to bring his complaint to this service.

Also, and in summary, HSBC made the following points:

- Its sorry for blocking Mr R's accounts to comply with its statutory requirements but this will remain in place until the process is complete. If Mr R has salary or benefits paid into these accounts, HSBC's branch staff can seek authorisation for them to be withdrawn
- Its HSBC's policy not to discuss this process, so it can't provide any more details

On 14 January 2022, Mr R was sent a letter from the police informing him that a court had issued an Account Freezing order against him for his two HSBC accounts in which a little over £22,000 was held. He was also asked to provide evidence of his entitlement to several transactions. The order was issued for six months.

Amongst other correspondence, Mr R sent a renewed letter of complaint to HSBC around April 2022. In summary, Mr R set-out ten heads of complaint:

- (1) HSBC placed a marker on his accounts without informing him. Mr R understands why HSBC and the police might not want to alert people in advance about their accounts being frozen, but questions why HSBC couldn't have told him through various channels available to it once it had taken this action
- (2) When Mr R first contacted HSBC to question what was going on, he was told someone would contact him in seven days, but this didn't happen
- (3) Failure by HSBC to respond properly to complaints raised on his behalf by the branch members twice in December 2021. HSBC did not contact Mr R as promised

- (4) HSBC failed again to contact Mr R by post as promised by its Customer Advocate on 17 December 2021 in relation to points raised about the account restrictions
- (5) HSBC failed to respond to Mr R's letter dated 19 December 2021 when he had made it clear its treatment was adversely affecting his and his wife's mental health
- (6) HSBC failed to respond to Mr R's letter dated 11 January 2022 in which he set out twenty points for it to respond to. These points ranged from explaining his account restrictions, why it had not told him about the restrictions, why its staff members have no information about this, why its communication was poor, the inconvenience caused to him for having to cancel direct debits and generally the inconvenience, stress and embarrassment caused
- (7) Mr R raised a Subject Access Request (SAR) in line with the provisions of the Data Protection Act on 3 February 2022, and it appears HSBC mislaid this request for six weeks. He didn't receive this information until 8 April 2022 after having to instigate intervention through a HSBC branch
- (8) Whilst chasing HSBC for the SAR, he was given information by its staff member which later transpired to be fabricated because he was told a three-page response had been drafted and sent to him on 3 March 2022
- (9) HSBC failed to provide all the information in the SAR which Mr R had requested, as it didn't provide reasons for why the account was restricted or a marker placed against him, and what information was given to the police
- (10) HSBC failed to advise the authority now investigating his account activity of information he had provided in branch. This related to large property transactions he had made which he was now being asked about by the police

In May 2022, HSBC sent Mr R a complaint response. In short, it made the following points:

- HSBC will not be giving Mr R a point-by-point response as he requested
- Mr R's accounts are currently blocked because of a Proceeds of Crime Act 2002 Restraint order served on HSBC by the Crown Prosecution Service (CPS). It understands that Mr R is aware of this, and the associated legal obligations placed on all parties affected by its terms. And should Mr R want to regain access to his accounts, he will need to contact the CPS
- The block previously applied by HSBC before the order was following an internal review. This was done in line with HSBC's policy and terms and conditions of the account. This type of review does not require any communication being issued – and there are no timescales involved
- A SAR cannot be completed via email and requires verification with its customer service team. The information issued as part of the SAR to Mr R, was that which HSBC was required to give in line with data protection laws. HSBC is sorry it gave Mr R incorrect information when he requested contact
- Mr R has confirmed he will be referring complaint to the Financial Ombudsman Service based on this complaint response. Further correspondence will be issued via them

Mr R then referred his complaint to this service. Mr R said he had no issue with the accounts

being frozen. But he did have issue with not being told about the restrictions, and the unprofessional attitude and behaviour and performance of HSBC's non-branch staff. Mr R also set-out his complaint points as above.

Mr R later added that:

- HSBC failed to offer guidance on how he should live without his funds
- As his funds were frozen, he had to delay setting up a new business he was planning. And he's had to defer planned energy saving improvements to his home, and make regular payment commitments manually
- He had to open a new bank account which took six weeks during the Christmas period, and had to borrow money from family causing embarrassment
- They have had to put plans on hold, and the uncertainty has caused severe distress and inconvenience for which compensation should be paid
- The police have questioned Mr R on old transactions, some made as long ago as 2016, but HSBC failed to ask him about them at the time. So its possible HSBC were negligent in the handling of his accounts. HSBC should have done much earlier to satisfy it of Mr R's deposits made in 2016 and 2017 rather than waiting five years and passing it over to the police

In July 2022, the court extended the freezing order on Mr R's accounts by four more months.

In December 2022, the police wrote to Mr R and informed him that after examining the evidence he had presented to it to account for certain transactions, an application was made and granted by the court on 24 November 2022 to set-aside the order. They added that HSBC have been informed and it's confirmed the account restrictions have been removed.

HSBC say it received an email from the police officer on 29 November 2022 that an application to set aside the freezing order had been granted by the court. HSBC removed the account restrictions on the same day.

On 6 December 2022, HSBC wrote to Mr R and gave him notice that it will close his accounts in 60 days' time. Mr R believes HSBC pre-judged the police's outcome that he was guilty by closing his accounts.

He also adds that the investigating police officer indicated to him in conversation that it was 'fair comment' to his assertion that had HSBC done its job properly their investigation could have been altogether prevented.

One of our Investigator's then looked into Mr R's complaint. They recommended Mr R's complaint be upheld in part. Their key findings were:

- HSBC acted in line with its obligations when blocking Mr R's accounts and in line with the terms of the account when deciding to close them
- HSBC does not need to give a reason when restricting a customer's account
- They appreciated that HSBC's actions caused Mr R distress, but it was entitled to conduct a review and block his accounts
- Complaint handling is not one of the regulated activities covered by our service. So

they couldn't consider any points about how HSBC handled his complaint - that's a matter for the regulator, the Financial Conduct Authority

- The SAR request wasn't adhered to in the correct time, because of this HSBC should pay Mr R £50 for its error

HSBC accepted what our Investigator said. Mr R did not accept, amongst other things he said the compensation did not cover his expenses nor reflect the adverse impact to his character. He also feels it doesn't compensate him for the stress he underwent because of the police investigation.

Our Investigator then looked into Mr R's complaint again and altered their position by sending a second set of findings. In summary, they were:

- They had not taken the correct approach to Mr R's complaint earlier when saying complaint handling isn't a regulated activity covered by this service. Though generally this is correct, as the issues being complained about here relate to an underlying financial service, it is something we can consider
- Though it's understandable why Mr R says HSBC should have informed him that it had placed restrictions on his accounts, it wasn't obligated to do so
- Mr R has referenced multiple occasions in which HSBC failed to respond in part, or at all, to his complaint points. But once referral rights are given to this service, banks aren't obligated to respond to further complaints. Mr R received a final response on 17 December 2021, after this point HSBC weren't obligated to respond further
- However, this service would expect banks to respond to any new complaint issues should they arise. HSBC did this as it sent Mr R a further final response letter on 26 May 2022. Whilst HSBC didn't respond to each of Mr R's complaint points, referral rights were again given to our service – anything not covered by HSBC would be considered by our service
- When an account is restricted by a bank, there is little it can do in terms of financial support or advice. In some cases, they may allow access to salary and/or benefits but this can't happen when a court order is involved. A failure to adhere to a court order can result in severe implications for the financial business. So there's not much else HSBC could've done to offer support to Mr R
- On the balance of probabilities, it seems most likely there was a human error as opposed to a lie or fabrication in relation to communication about the SAR. The impact of this error to Mr R was minimal
- Given the information available, they were satisfied HSBC acted in line with its terms and conditions when closing Mr R's accounts. When HSBC closes an account, they don't have to give a reason
- Whilst Mr R had given HSBC information about numerous transactions previously, the law enforcement investigation was entirely separate from HSBC's review. Law enforcement needed to pursue their own investigation and line of questioning to satisfy any concerns they may have had. Which I can see they did. Once law enforcement informed HSBC their investigation had been completed and the order lifted, I can see HSBC complied with this and removed any blocks from Mr R's account

Mr R responded to the second set of findings and said he would like his complaint to be passed to an ombudsman to decide. He reiterated that HSBC should have done much more in terms of investigating its concerns by speaking to him before handing the matter over to law enforcement.

Mr R has also asked for an apology from HSBC for the manner in which it has handled his complaint, to rescind the cancellation of his accounts, and pay him proper compensation for the distress and mental anguish it's caused him and his wife.

As Mr R didn't agree, this complaint has now been passed to me to decide.

### **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 decided to uphold part of Mr R's complaint. I'd like to assure Mr R that I have not undervalued the difficulty of what he has said he has been through, nor how strongly he feels about his complaint.

Much of what I'm about to decide will most likely disappoint Mr R, so I'll explain why.

I'm very aware that I've summarised the events in this complaint in less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything that Mr R and HSBC have said before reaching my decision. It's important to note, my decision focuses on HSBC's actions in regard to both of Mr R's accounts.

I would add too that our rules allow us to receive evidence in confidence. We may treat evidence from banks as confidential for a number of reasons – for example, if it contains security information, or commercially sensitive information. Some of the information HSBC has provided is information we consider should be kept confidential.

### *Account restrictions, police involvement and closures*

Banks in the UK, like HSBC, are strictly regulated and must take certain actions in order to meet their legal and regulatory obligations. They are also required to carry out ongoing monitoring of an existing business relationship. That sometimes means banks need to restrict, or in some cases go as far as closing, customers' accounts.

Mr R accepts that HSBC may need to review and restrict accounts. And, having looked at HSBC's reasons for doing so, I'm satisfied it has acted in line with the obligations it must follow by carrying out a review and blocking Mr R's accounts in December 2021.

Once a freezing order was issued by the courts in January 2022, HSBC was under a strict legal obligation to apply it in line with the terms it stipulated. I note this was extended in July 2022 until the order was set-aside by the court in November 2022. From the evidence presented to me, I'm satisfied HSBC applied this order in the way it should have. I also don't think any delay was caused by HSBC when it was informed about the order being set-aside

given it removed any restrictions on the same day.

I'm aware Mr R accepts HSBC had to comply with court orders. This in turn brings me to what I consider to be the crux of Mr R's complaint about the restrictions. That is, HSBC failed to inform or warn him about the restrictions which could have left him in an incredible vulnerable situation, and that HSBC was negligent and/or grossly incompetent in carrying out its own investigation before passing the matter over to law enforcement authorities.

I can understand why not being told about the restrictions before finding out through declined debit card payments and speaking to HSBC staff members with limited information, would be incredibly frustrating and equally distressing. Though I accept forewarning would have alleviated some of the frustration, inconvenience and distress, it would not have given Mr R the answers he was seeking. Namely, why HSBC was acting in this way.

But more importantly, I'm not aware of any such obligation under which HSBC should have told Mr R what it had done shortly after restricting the accounts. Given its concerns, I can understand why it may have chosen not to.

Similarly, Mr R has questioned HSBC as to why it hasn't explained why it restricted his accounts. I note Mr R requested this information as part of his SAR. But HSBC is under no obligation, that I'm aware of, to give Mr R an explanation. What I can say is that based on the evidence presented to me, I'm satisfied it has acted properly here.

Mr R says that had HSBC carried out its responsibilities and duties properly before, especially at the time the transactions the police were interested in were carried out, then as alluded to by the investigating officer this situation would not likely have arisen. So he says HSBC have possibly been negligent.

I don't know what the investigating officer said to Mr R, as I haven't seen anything that speaks to this from the evidence I've seen. But ultimately the police needed to pursue their own investigation to satisfy any concerns they may have had. Also, I'm satisfied that HSBC had concern enough when restricting the accounts, and that it has followed the steps it is obligated to do so as part of its review.

HSBC is entitled to close an account just as a customer may close an account with it. But before HSBC closes an account, it must do so in a way, which complies with the terms and conditions of the account.

The terms and conditions of the accounts, which HSBC and Mr R had to comply with, say it could close the accounts by giving him at least two months' notice. And in certain circumstances it can close an account immediately or with less notice.

Having looked at the information given to me by HSBC, I'm satisfied it was entitled to close the accounts in the way that it has done – by giving Mr R two months' notice. HSBC had written to Mr R to explain its actions in December 2022. So I don't think HSBC needs to rescind its decision to close them - nor is it required to give Mr R an explanation.

Mr R says this matter has caused him financial loss and the loss of potential income as he had to suspend his plans to set-up a new business. He also says it's caused him and his wife severe embarrassment, distress and inconvenience.

As I alluded to before, I appreciate this matter would've caused him difficulty to the extent he describes. But having looked at what's happened in relation to the account restrictions, the actions HSBC took as part of its review and the closure of the accounts, I see no basis on which I might make an award against HSBC. That's because I don't think it failed to properly

follow its own procedures or that it's done anything wrong.

So I'm not going to ask HSBC to compensate Mr R for any trouble and upset its actions in relation to the restrictions, review and closure of accounts may have caused.

#### *Customer service and complaint handling*

I'm satisfied that as the complaint points about customer service and complaint handling relate to an underlying financial product, I can consider them in my decision.

HSBC responded initially to Mr R's complaint about the restrictions in December 2021 – the same month they were raised with it. HSBC apologised for blocking his account but said it was following statutory requirements. It also said it can't give him anymore information about it and gave him referral right to this service.

Mr R then made a series of written and verbal attempts to continue to express his dissatisfaction. Mr R says he was given grossly unsatisfactory responses, and in some cases, nothing at all. That is until he sent a complaint to HSBC in April 2022 setting out in detail, and with definitive points, what he was unhappy about.

Mr R set out a series of incidents where he was promised contact would be made with him, but nothing materialised. I have no reason to doubt what Mr R says here, and some weight can be afforded to what is largely a contemporaneous account. I can also understand why this was dissatisfactory and caused further distress.

But HSBC were not obligated to give him an explanation for the root cause of his enquiries, that is why it had not told him about the restrictions or why they were imposed. And importantly, as it had given him a final response for this root cause issue in December 2022, which also gave referral rights to this service, it wasn't obligated to respond.

I do note however that it did send Mr R a response in May 2022 to his complaint letter of April 2022, around which time he referred his complaint to this service. So though it appears HSBC have provided Mr R with an inadequate level of customer service especially by not doing what it said it would do in contacting him, I'm persuaded it wouldn't have been able to help him anymore than it already had at that stage, and after the point it sent him its initial final response in December 2021.

Its response in May 2022 after all speaks to the account restrictions and it not being able to give any further explanation. So I won't be making any award here for poor service or issues related to complaint handling.

#### *SAR request*

HSBC accept it caused undue delay in processing Mr R's SAR request. It says that an internal process wasn't correctly followed by one of its staff members which led to it not being actioned in line with the required timescales. I'm also satisfied from what I've seen that it took Mr R's follow up enquiries for the SAR to be properly picked up and actioned. So HSBC got things wrong here.

I don't however think there was likely a deliberate and/or malicious attempt to obfuscate and lie to Mr R about this. I haven't seen any evidence to suggest this was likely to be the case here. None the less, HSBC made errors in relation to processing this information, so it needs to compensate Mr R for any distress and inconvenience it caused.

In reaching what I think is fair redress for this point, I'm aware that most of the information

Mr R requested related to reasons about HSBC's restrictions and these weren't provided. Given the legal and regulatory obligations that sit behind this, I'm satisfied HSBC did nothing wrong and complied with the request for information in line with what it could do.

So even though the SAR information was delayed, I don't see how this had a serious impact and detriment on Mr R. Given the inconvenience it caused, I'm satisfied £50 is fair compensation. This information would not, and did not, lead to any material change in Mr R's position.

#### *Other complaint points*

Mr R wants HSBC to send him an official apology. I have found that HSBC got things wrong with processing Mr R's SAR. I'm not persuaded an apology will put Mr R back in the position he would have been had this error not been made. HSBC have already apologised for this, so I don't think it needs to do any more.

HSBC may choose to apologise to Mr R for any failed promises it made to contact him.

Mr R says HSBC should have provided financial support and advice when blocking his accounts. HSBC explained that it might be able to let Mr R withdraw funds if they relate to salary or benefits. Once the court order was issued, HSBC were bound to follow it. So overall, I'm not persuaded HSBC should have done more than it did. In making this finding, I haven't seen that there was a specific vulnerability for which HSBC ought to have acted differently and tailored its services.

#### **My final decision**

For the reasons above, I uphold this complaint in part. HSBC UK Bank Plc must now pay Mr R £50 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 4 December 2023.

Ketan Nagla  
**Ombudsman**