

The complaint

Ms S is unhappy about advice she said she received from her HSBC UK Bank Plc branch about opening a Fixed Rate Saver account. Ms S only found out about penalty charges when she needed to make a planned withdrawal from the account.

What happened

Ms S said she went to a local branch to get some help with opening a savings account. Ms S said she was clear that this was a short term requirement and she was looking to use the money soon to buy a small business. Ms S said she isn't good with technology and so a staff member opened the Fixed Rate Saver account for her while she was in the branch. Ms S said she was told it provided instant access to her money without any costs or fees as long as she made sure the amount placed in the account was below £50,000. Ms S said the staff member used the bank's system to open the account for her.

A few months later Ms S went back to the same branch to confirm she would soon need to withdraw the money as she was shortly due to complete on buying the small business. Ms S said she spoke to a staff member who confirmed she could return the following week when the business purchase was completing, and that the money could be withdrawn on the day.

Ms S followed this advice and when she returned the branch couldn't release the money. The branch manager got involved and said a notice period was required and an early withdrawal fee would apply. Ms S had to delay the business purchase and she explained what she had been told when she opened the account. Ms S said the branch manager said the withdrawal fee wouldn't be charged in view of this.

A week later Ms S got a letter from HSBC confirming the withdrawal had gone through but still noting fees charged for the withdrawal. Ms S went back to the branch and spoke to a staff member as the manager wasn't there. The staff member said a complaint would be set up and investigated for Ms S. But nothing further happened, and Ms S had to return to the branch on further occasions and no records were found of a complaint being set up or investigated. Eventually HSBC did set up a complaint and sent Ms S a final response. HSBC didn't uphold Ms S's complaint and so she brought it to this service.

Our investigator upheld the complaint. He said Ms S had been consistent throughout with the details and dates she provided within her evidence. He said it was clear and even noted online that the local branch offered support for customers who went into the branch for help. He also noted there was no digital footprint to show where Ms S had opened the account. Our investigator said there was acceptance from both sides that Ms S had started a complaint but there was no evidence to show the branch had logged it and investigated it despite accepting Ms S had complained. He said HSBC had been inconsistent compared to Ms S and it should pay back the withdrawal fee and pay £150 for the distress and inconvenience caused.

HSBC didn't accept this and asked for the complaint to be passed to an ombudsman for a 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.

In HSBC's final response letter, it said:

"I can't agree our branch staff mis-sold the product to you. To explain, the application in February 2023 was done through your Online Banking Service and not by our branch staff."

In HSBC's complaint assessment it said:

"Customer applied online and it was her responsibility to read the T&C of the account which are clear."

No evidence of any advice being given at the time the customer applied and no call recordings logged."

Fixed rate is exactly as it advertises and does have the 90-day interest penalty."

And in HSBC's audit report it said:

"The Online Bonus Saver application was progressed via Internet Banking."

Ms S said that she opened other accounts on the same day also with the assistance of staff, based on the details above I think Fixed Rate Saver and Online Bonus Saver are likely to be the same account.

In the details provided to this service by HSBC to show how consumers can apply online it also refers to an option for anyone needing help to visit a branch for help and this includes the local branch that Ms S visited.

Ms S said the staff member confirmed they weren't able to give advice but could suggest products that might be of interest to her. Ms S told this service as she wasn't confident using technology it was a male member of staff who opened the account for her. The staff member took her to their desk in a room upstairs and opened the account on her behalf through the bank's system on a laptop with her facing the staff member across a desk. HSBC hasn't explained that at all in any of its responses. Instead, it has just maintained it was all done online by Ms S. I would have expected HSBC to deal with this in evidence to this service, but it ignored Ms S's testimony. If I accept Ms S's evidence then it also throws into question how aware she was of the terms and conditions. And there's no details to confirm where the account was opened.

Ms S pointed out that when she went back to the branch to discuss the withdrawal, she was given the impression this would be straight forward and could be done on the day in branch. She only found there was a problem when she did go back the week after to conclude the withdrawal. It was only once the branch manager got involved that a notice period and fees were mentioned. Ms S said she explained to the manager about the business purchase, and she had to speak to her solicitor to put that on hold. Ms S said the branch manager told her he wouldn't charge her the withdrawal fee.

When Ms S got a letter from HSBC confirming the fee had been charged, she returned to the branch but couldn't see the manager. It's accepted that she spoke to another staff member who was going to investigate a complaint for her. But even though HSBC accepted Ms S did

go to the branch the complaint wasn't dealt with. Ms S had to make further visits before the complaint was actioned.

I note that Ms S opened the account for a very specific amount - £49,999. She said she was told by the staff member that below £50,000 was the limit whereby she could have instant access without a withdrawal fee. This gives the impression Ms S might've had more than that to save and suggests some guidance or discussion on the amount to put into this account took place.

HSBC has maintained that the account was set up online but didn't deal with the points raised by Ms S or our investigator. HSBC maintains Ms S was in charge of her application and therefore she accepted the terms and conditions. It said this was even if she did complete the application in branch and that it didn't matter if it was completed in branch or not.

I've also not seen any HSBC statements about any discussion Ms S had with the manager at the point when the issues around fees surfaced. And there's nothing from HSBC discussing why Ms S went for such a specific amount. Instead, HSBC said there's no evidence of wrong advice being given.

Ms S has been clear throughout about how and why she opened the account. None of that suggests she would have taken an account with early withdrawal fees and penalties. She has been clear throughout about what she was opening an account for.

All the dates given by Ms S in her evidence around opening the account, visiting the branch, closing the account, and raising a complaint are consistent. I don't think HSBC has been clear or consistent in its evidence. And this is highlighted by HSBC accepting Ms S did raise a complaint when she returned to the branch but it's clear that HSBC didn't deal with it at the time. It was several months later before Ms S got her final response and only after she made further visits.

I don't think HSBC has been able to clearly show Ms S chose the account herself, opened it online herself without any involvement from HSBC, selected the amount specifically herself, and accepted the terms and conditions herself. HSBC hasn't responded to her evidence about how the account was opened in branch instead it has said it doesn't matter where it was opened. HSBC hasn't mentioned whether other accounts were opened or not, it hasn't countered the details about the branch upstairs Ms S referred to. It has just maintained throughout that the account was opened online – but the online set up isn't disputed. What is disputed is how it was set up and by whom.

I don't think HSBC has shown that it acted fairly and reasonably in this case. I think HSBC should refund Ms S any withdrawal fees.

It was clearly a stressful time for Ms S as she was trying to buy a business. Having to contact her solicitor to hold up the purchase, being told the fee wouldn't apply only to find that it did and having to take several extra trips to the branch was upsetting for Ms S. I think £150 compensation for her distress and inconvenience is appropriate in the circumstances.

Putting things right

- Refund any withdrawal fees.
- Pay £150 for the distress and inconvenience caused.

My final decision

I uphold this complaint.

I require HSBC UK Bank Plc to:

- Refund any withdrawal fees.
- Pay £150 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 4 June 2024.

John Quinlan
Ombudsman