

The complaint

Mr P complains HSBC UK Bank Plc blocked his savings account and then made it dormant and despite extensive efforts on his part hasn't given him access to his funds. He also complains that HSBC UK Bank Plc is discriminating against him because it's told him that he can't open a new account as he doesn't reside in the UK.

What happened

Mr P lives abroad and has had a savings account with HSBC for over 25 years.

Mr P and HSBC have had a long running dispute about his savings account. Mr P says that HSBC made his account dormant when it shouldn't have done and won't re-open the account despite the fact that he's done what HSBC told him to do on the phone. HSBC says that it made Mr P's account dormant as he'd not used it for years and that he now knows what he needs to do in order to access his funds.

Mr P referred his dispute with HSBC to us in September 2022. Both an investigator and an ombudsman have looked into the matters he's complaining about and explained what issues we can and can't look at. An investigator has said that they think HSBC acted unfairly as far as the issues we can look at go and that HSBC should pay Mr P £300 in compensation for the distress and inconvenience he's been caused. Both parties have at times been unhappy with what we've said. This complaint has, as a result, been passed to me 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.

Last month I issued a provisional decision in which I said the following:

"No-one appears to dispute the fact that Mr P has had a savings account for a number of years which, according to HSBC, has been made dormant. I can see that Mr P is very angry and frustrated about this. HSBC also appears to now accept that Mr P was in the past told that all he needed to do in order to get his funds released was to send documents proving his identity. For example, a copy of his passport. But that he wasn't told that these documents would need to be certified. As Mr P says he sent HSBC the documents it asked for – albeit uncertified – he's understandably frustrated that he still hasn't been given access to his funds. He's also unhappy that HSBC won't allow him to open a new account as he doesn't reside in the UK. I'll deal with that point in a moment.

I agree with the ombudsman and the investigator who looked into this complaint before me that there are issues that we can't consider because they've been brought out of time. I also agree with our investigator that HSBC hasn't acted fairly in this case. That means the only issue I really need to decide is how to fairly resolve this complaint – that's what I'm meant to do in cases where I think a business hasn't acted fairly. I can see that Mr P's main aim when he brought this complaint to us was to get access to

his funds. And although I might not be able to make a finding about whether or not, for example, HSBC acted fairly when it originally made Mr P's account dormant, that doesn't stop me requiring HSBC to take steps in relation to that account in order to fairly resolve this complaint.

how do I think HSBC should put things right?

*HSBC said that it was happy to pay the compensation our investigator awarded to an account in Mr P's name, as long as he provided the details. He's provided us with the details of an account in his name. I'm going to refer to this account as "**Mr P's nominated account**" in the rest of this decision. So, I'm minded to require HSBC:*

- 1) to pay Mr P £500 in compensation into Mr P's nominated account;*
- 2) to pay the balance in Mr P's savings account into Mr P's nominated account once Mr P has provided HSBC with the documentation it needs.*

I'm going to require HSBC to set out clearly and in detail what documentation Mr P will need to provide in order to release the funds in his savings account in its response to this provisional decision. In my final decision, I'm minded to make HSBC's obligation to release the funds in Mr P's savings account contingent on the provision of that documentation, so it's really important that HSBC sets out what documentation it needs clearly and in detail.

I can see that Mr P asked HSBC to open a new account for him and HSBC said that it couldn't do so as he resides outside the UK and so does not meet its eligibility criteria. Mr P has complained that HSBC is discriminating against him. I can see why Mr P feels that way, and as it's relevant law I've taken the Equality Act 2010, amongst other things, into account when deciding this aspect of his complaint. More importantly, I've taken into account the fact that as an ombudsman I have to make a decision based on what I consider to be fair and reasonable. Having done so, I don't think it was unfair or unreasonable of HSBC to say that it couldn't open a new account for Mr P as he resides outside the UK."

I invited both parties to respond to my provisional decision and both did.

Mr P said he was happy with the outcome I'd recommended and said that HSBC should pay interest accrued during the dormancy period and provide a full statement upon the closure of the account. HSBC also accepted my decision and noted that it was only proof of address that is outstanding for Mr P. HSBC sent me a link outlining the procedure involved – which I've forwarded to Mr P along with details of where his [certified] proof of address should be sent. As both parties have agreed, and I see no reason to depart from my provisional decision, I'm going to uphold this complaint.

Putting things right

As I said in my provisional decision, I think HSBC should pay Mr P £500 in compensation for the distress and inconvenience he's been caused. In addition, HSBC should pay the balance in Mr P's savings account into Mr P's nominated account once Mr P has provided certified proof of address. I remain of that view.

My final decision

My final decision is that I'm upholding this complaint and require HSBC UK Bank Plc:

- 1) to pay Mr P £500 in compensation into Mr P's nominated account;
- 2) to pay the balance in Mr P's savings account into Mr P's nominated account once Mr P has provided HSBC UK Bank Plc with certified proof of address.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 23 March 2024.

Nicolas Atkinson
Ombudsman