

## **The complaint**

Mr M complains that HSBC UK Bank Plc won't return a payment to him which credited his closed account in error.

## **What happened**

Mr M says he had an issue with a third party mobile phone provider, and he was due a refund of £338. He says they should have paid this money into a bank account of his which wasn't with HSBC, but as his details on their system showed his HSBC bank account details, they sent it to his HSBC account, even though it had been closed around two years ago, and it was being managed by a debt management company (DMC).

Mr M contacted HSBC to try and get the money paid into his external bank account. At first they told him they couldn't locate the payment, and they asked him to get further information from the mobile phone provider, then they told him that this money was claimed by them as his account which was closed with them had an outstanding balance. Mr M said that he intended to use the money to split it between his creditors, but HSBC took it all. Mr M made a complaint with HSBC.

HSBC partially upheld Mr M's complaint and paid him £30 for delays. But they said they couldn't locate the payment which the mobile phone provider had made, and they suggested things he could ask them to help them locate the payment. HSBC later issued another response to Mr M where they paid him an additional £50 compensation, and as a gesture of goodwill, they cleared a £59.51 outstanding balance on his HSBC credit card, due to this not being picked up sooner and the service he received.

HSBC said at the time they sent Mr M the first letter, no credits had been received by the third party at that point, but they received the credit on 21 November 2023. They said that when they received the payment, their HSBC Repayment Services team, who had been dealing with the debt, used the £338 credit to pay this towards the outstanding debt on the closed account. They confirmed they wouldn't be paying this back to him. Mr M brought his complaint to our service.

Our investigator did not uphold Mr M's complaint. She said Mr M confirmed he had four creditors, all of whom are set up on a repayment plan with various DMC's, but having considered these outstanding debts, she wasn't persuaded that any of these debts took priority over money owed to HSBC. So, she didn't think it was essential for the £338 to be split amongst his creditors. She said HSBC have advised that the refund has been correctly claimed towards his debt. Our investigator confirmed that the debt still belongs to HSBC, but it has been placed with the DMC to recover it. Mr M asked for an ombudsman to review his complaint, and he didn't think the £338 had reduced his outstanding balance.

## **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.

Mr M has made a number of points to this service, and I've considered and read everything he's said and sent us. But, in line with this service's role as a quick and informal body I'll be focusing on the crux of his complaint in deciding what's fair and reasonable here.

I must make it clear to Mr M that it is not within this service's remit to tell a business how they should operate their policies and procedures, such as applying a payment they receive on behalf of Mr M to his closed account with an outstanding balance, instead of returning the payment to Mr M. It would be the role of the regulator – the Financial Conduct Authority (FCA), who have the power to instruct HSBC to make changes to their policies and procedures, if necessary.

I'm only able to look at the actions of HSBC as part of this complaint and not the mobile phone provider, as they do not come under our jurisdiction. But Mr M may wish to make a complaint to them directly if he feels they have made any errors with the payment, such as the destination of the account they made the payment to.

I want to confirm to Mr M that the debt belongs to HSBC – even though it has been placed with a DMC. I can also confirm that the outstanding balance of the debt has been reduced as a result of the £338 payment. HSBC sent us screenshot evidence of this, and it shows that prior to the payment crediting the account on 22 November 2023, his outstanding balance was £2,160.34, but after the payment of £338, his outstanding balance was £1,822.34. So I'm satisfied his debt had been reduced by the amount of the payment.

While I can sympathise with the position Mr M found himself in, as he believed the payment would be credited to his external account, where he could split the payment between his creditors, I'm not able to hold HSBC responsible for the actions of the mobile phone company. As HSBC received a payment, I'm not persuaded that they were unreasonable in using this money to reduce the outstanding balance Mr M owed them, regardless of whether he was on a payment plan with them/the DMC.

I say this because Mr M has shared with us his other creditors. And I can't reasonably say that they should be prioritised over his HSBC debt. So while it may have been Mr M's intention to split this payment with his creditors, I'm unable to conclude that HSBC acted unreasonably by reducing the debt on the closed account, and not refunding him this payment, even though Mr M himself believes this is unfair.

But I do think HSBC let Mr M down at times with the service they provided him. I say this because I've reviewed the chat history Mr M had with HSBC, and I can see they had problems accessing the system at times. Mr M was told they would get in touch with him, but he was inconvenienced by having to contact them the following day via the chat facility when they hadn't gotten in touch with him.

HSBC also acknowledge that there were delays and poor service with duplicate complaints being opened then closed. So I do think compensation was due to Mr M. I've considered that Mr M has been paid a total of £80 for the service issues. HSBC also wrote off his credit card outstanding balance with them (£59.51).

The £80 compensation for distress and inconvenience for the service issues is in line with our awards for the service issues Mr M encountered with HSBC. So as HSBC have already paid this to Mr M, it follows I don't require HSBC to do anything further.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 April 2024.

Gregory Sloanes  
**Ombudsman**