

## **The complaint**

U complain HSBC UK Bank Plc (“HSBC”) restricted their business account and withheld their funds causing significant financial loss, inconvenience, and loss of reputation.

## **What happened**

The details of this complaint are well known by both parties, so I won’t repeat them again here in detail. Instead, I’ll focus on setting out some of the key facts and on giving my reasons for my decision.

To be clear, this decision only deals with U’s accounts because as a limited company, it is a separate legal entity. U’s business relationship, and account, started in the Autumn of 2022 with HSBC. U say it’s around this time they started their business.

On 3 March 2023, following a review, HSBC restricted U’s account. Funds were still permitted into the account, but U was unable to access them nor any banking services. U complained. HSBC didn’t uphold their complaint, in summary the key points it made were:

- Further information was needed for a payment U received of around £1,000 which was credited to the account on 3 March 2023
- U has provided some information about this, and it’s being reviewed by the relevant department
- U’s account is inhibited as HSBC is complying with UK statutory requirements and a timescale of when this will be completed can’t be given

As a result of HSBC’s actions, U say it couldn’t pay its principal overseas contractor’s invoice of whose services it effectively re-sold in the UK through its website and internet search engines. The outstanding invoice was for £14,762.40 and U had seven days to pay it from 1 March 2023.

Going ahead, I’ll refer to this overseas principal contractor as “R”. U was making payments to R from its account from October 2022.

U was also using a third-party company who facilitated online card payments for them. To keep things simple, I’ll refer to this company as “S” going ahead. S were making regular payments into U’s HSBC account from September 2022 up and until 4 April 2023.

On 4 April 2023, HSBC told U it had completed its review, and the restrictions will be removed. Based on this, U’s director visited the branch. But later that day, another of HSBC’s departments restricted the account.

In June 2023, HSBC accepted this was poor service and offered U £100 compensation.

As the restrictions remained on their account with HSBC, U opened a new account with another bank around the 1 May 2023. Payments from S were then diverted to this new

account. At the end of April 2023, U had a balance on their HSBC account of around £44,300.

U referred their complaint to this service. In July 2023, HSBC reiterated to U that the restrictions it has placed will remain while it continues to comply with UK statutory requirements. In August 2023, HSBC sent U a letter in which it said it was closing their account and that it will send them a cheque for the balance.

One of our Investigator's then looked into U's complaint, and they recommended it's upheld. In summary, they made the following key findings:

- HSBC restricted U's account in line with its legal and regulatory obligations. HSBC didn't have to give U notice of this nor provide a set deadline for when its review would finish
- HSBC was able to continue to restrict U's account on 4 April 2023 despite telling them they had been removed. But not informing U that the account had been restricted again caused their director inconvenience by going into branch
- HSBC finished its review in August 2023 and informed U it was closing their account and would send a cheque for the balance. HSBC could do this
- HSBC caused undue delays, and they can't see why it couldn't have closed the account and released the funds by 1 June 2023
- To put things right, HSBC should pay compensation for the impact its actions had on U's business operations, undue delays, and wasted trip to branch. HSBC should pay U £250 in total for the inconvenience it caused. It should also pay 8% simple interest on the account balance from 1 June 2023 until the funds are released

After asking for some more information as to why the Investigator said HSBC should pay 8% simple interest from 1 June 2023, HSBC accepted the recommendation. U did not. In short, U made the following key points:

- U has now received a cheque from HSBC for the closing balance
- Compensation for the deprivation of funds should be paid from when the account was first restricted in March 2023
- U were faced with penalties for late payment to R and sustained losses to its business. R stopped sending further invoices in lieu of its £14,762.40 payment. But it did send an invoice dated August 2023 for interest of 18% per annum for the outstanding amount of £14,762.40 and for a £30 late payment charge
- U say that after paying the interest penalty and late payment fee, the remaining amount to bring the total to £6,000 was a goodwill deposit to maintain continued business until the rest of what they owed – from the former invoice - is paid
- R stopped providing services from 24 April 2023 for 30 days until U was able to convince them of what was going on with their funds being restricted and continue working with them
- U couldn't conduct any business in April 2023. Based on previous earnings, and what the net profit would likely be, HSBC should pay around £2,210 for loss of business income

- HSBC should also pay the £30 fine and interest for late payment as invoiced by R. This is £1,012.80

Our Investigator considered the complaint again in light of the new information U sent. But they didn't think U suffered losses beyond what they had already said. So, this complaint was passed to me to decide.

I asked U for more information about the losses they say were sustained because of what HSBC did. Some of the key points they made were:

- The invoice for £14,762.40 was only paid once U was able to recover enough to pay it. This was paid on 18 August 2023 well before HSBC released the funds to them in mid-September 2023
- R continued to provide services as part of a grace period and the goodwill deposit payment helped enable this
- U lost business due to R stopping its services for a while. This impacted upon their business' reputation and ability to retain customers
- S requested a new bank to deposit funds into due to HSBC's restrictions. U couldn't get funding from S which affected their relationship with R

I then sent both parties my provisional decision in which I set-out what I was planning on deciding. For ease of reference, here is what I said:

#### Provisional decision

*"I'm very aware that I've summarised the events in this complaint in far 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 U and HSBC have said before reaching my decision.*

*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 am planning on deciding to uphold this complaint in part. I'll explain why.*

#### Account restrictions and delays

*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.*

*U is aware, given its final response content, that HSBC required information about a payment it had received and that whilst it reviewed this the account would remain restricted. Having carefully considered the explanation and evidence HSBC has provided to me, I'm*

*satisfied it was acting in line with its obligations when it reviewed and restricted U's account.*

*I can understand why U would want a more detailed and specific explanation. But HSBC are under no obligation to do so. But having said that, HSBC should carry out its review and take pertinent action flowing from it in a timely manner.*

*After carefully weighing up everything both parties have told me, I'm satisfied HSBC hasn't done so. So, to be clear, I think HSBC has caused significant avoidable delay – and from the information I've seen, I'm persuaded it ought to have investigated and completed its review in around a months' time from applying the restriction.*

*HSBC didn't decide to close the account until August 2023 and then send the funds until September 2023. I'd also add here that I'm not persuaded HSBC has carried out the level of due diligence I'd expect it to have done. I'm persuaded, from the evidence I've seen, that had it done so, it would have released the funds much sooner than it did.*

*So, in summary, I find HSBC caused significant delay in its review and therefore kept hold of U's funds for much longer than it should have. And based on what I've said above, HSBC should likely have done this by 4 April 2023.*

*HSBC decided to close U's account with immediate effect. Given the information I've seen, and the lack of proper due diligence on its part, I think HSBC should have given U two months' notice. But this is in effect immaterial given U opened a new bank account at the end of April 2023 to avoid suffering further detriment.*

#### Fair compensation

*This brings me to the crux of the complaint – what I think is fair compensation for HSBC's failings.*

#### *Business losses and penalties*

*U says that it suffered loss of business income as it couldn't trade for the month of April 2023 as R had stopped providing its services. I haven't seen compelling evidence that R did this. Instead, the account ledger for S I've been sent shows that payments to it for U continued through this period. So that means it's most likely U were still able to take payments for the services they offered.*

*I note S stopped making payments to U's HSBC account on 4 April 2023. Given I think HSBC didn't do anything wrong by restricting the account for a month from 3 March 2023, these funds wouldn't have been available to U up until that point. Importantly, S still took payments their end after this point based on the ledger/statements I've seen. Because of this, I'm persuaded U was able to continue its business activities.*

*I accept that this may have been hampered or impaired to some degree. But like I've said, I haven't seen compelling enough evidence R stopped its services completely. And even if it did, I'm not persuaded that any deduction of this could be made accurately.*

*However, the invoices I've been sent, and as the new bank account statement for August 2023 shows U paid R the outstanding £14,762.40 it owed on 18 August 2023. I've also seen on the bank statements that £6,000 was paid to R, as they say, on 23 May 2023. Given the invoices I've seen, and as they're consistent with the payments made, I'm satisfied U were held liable and paid penalty interest for the £14,762.40 it owed to R.*

*So I think HSBC should pay this penalty from 4 April 2023 up until R was able to make the*

*payment for its March 2023 invoice on 18 August 2023. U paid for 135 days, which is a day less than my calculations. But they did pay this earlier than the original invoice amount – which they say was a goodwill payment to R until they were able to pay them what they owed as invoiced in March 2023.*

*HSBC should therefore pay the amount of £982.82 to U.*

#### *Deprivation of funds*

*As I'm persuaded HSBC should have released the funds it held in the account from 4 April 2023, U has been deprived of funds it would otherwise have had the use of. It is the approach of this service to award 8% simple interest for instances like this.*

*However, £14,762.40 of those funds were already earmarked for R. So HSBC should subtract this from the outstanding balance. I've already said HSBC should pay the interest penalty this outstanding amount to R attracted.*

*So to be clear, HSBC should remove £14,762.40 from the account balance it held and then work out 8% simple interest from 4 April 2023 up until settlement. HSBC has said the cheque for £45,331.03 was cleared on 15 September 2023. So it should pay interest up until that point.*

#### *Inconvenience and loss of reputation*

*U, and its director whilst running the business, have been caused considerable inconvenience by HSBC. They were led to believe the account was unrestricted in April 2023 and travelled to branch because of this. U has also had to deal with its main contractors and explain what happened to ensure it didn't lose business and goodwill. Undoubtedly, what has happened has caused damage to their reputation. But HSBC are only responsible for this from 4 April 2023 – so some damage to it would have been unavoidable.*

*After carefully weighing this up, and considering our approach to such awards – which is available on our website – I'm minded to award £600 compensation for the loss of reputation and inconvenience caused to U.*

#### *Putting things right*

*In summary and for the sake of clarity, HSBC need to do the following to put things right:*

- Pay U £600 compensation for the loss of reputation and inconvenience it caused*
- Pay U £982.82 for the penalty interest it had to pay to its principal supplier (R)*
- Pay 8% simple interest on the balance it was withholding from 4 April 2023 until 15 September 2023\**

*HSBC must deduct £14,762.40 from this balance before calculating the 8% simple interest payable"*

*The deadline for both parties to send me any more comments and evidence has now passed.*

*In response, and in summary, HSBC say due to the nature of concerns it held this led to an enhanced level of complexity at its end when investigating the matter. It's also explained why it took the steps it did internally. So because of the concerns it held, and the complexity,*

HSBC say a five-month timeframe from restriction to closure and disbursement of funds was justified – and not unreasonable.

U's director has called and spoken to our Investigator to make further comments. I'd like to assure U that I've carefully listened to this call. And having done that, I note the key points they've made:

- U isn't happy that I said £14,762.40 should be removed from the amount of their balance HSBC needs to apply 8% simple interest to. U add that they had to pay this amount to R from their other funds – so they were deprived of funds they otherwise would've had access to
- U's business activity did stop for a while and slowly got going again

U's director has also discussed another matter which involves a familial relationship. But, as I said in my provisional decision, my role is here is only to consider the complaint U has made against HSBC. U is after all a separate legal entity to a private individual.

As both parties have made their submissions, I will now decide this complaint.

### **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 that, and for the reasons in my provisional decision, I have decided to uphold this complaint in part.

I've carefully considered the information HSBC has sent me and which it says justifies the length of its review and the actions it took. I can understand why HSBC had the concerns it did, but as I've already said, had it completed due diligence in the way I think it should have, its most likely the funds would have been returned to U in April 2023. So I still don't think five months from restriction to closure was justified.

U don't find it fair that I said the amount of £14,762.40 should be deducted from their balance when HSBC calculate 8% simple interest from 4 April 2023 until 15 September 2023.

I've very carefully considered this point, particularly as U say they had to use other funds to pay R. But what U say hasn't changed my mind. That's because £14,762.40 was always earmarked, in other words allocated, to pay R. So U wouldn't have had the use of these funds had things have happened as they should have. U would have paid R within the deadline they'd agreed when invoiced – which I understand to be seven days.

Its important to note that when directing a business to pay 8% simple interest in this way, this is an award that acknowledges a consumer has been deprived of funds they would otherwise have used. And which may have grown in value had they been able to do so.

I can understand why U think they were still deprived of these funds given they had to pay from their new account. But from what U have told this service, this payment was paid later after they were able to accrue sufficient funds from their ongoing business activities.

U should also note that there are inherent challenges companies will face when carrying out business. It's also noteworthy, that in making the direction to HSBC to put things right, I've accounted for the interest they were charged by R for late payment on £14,762.40.

So I'm persuaded the compensation and redress I've determined is fair and reasonable in the circumstances of this complaint.

Lastly, I have already considered what U said about their business activities stopping and gradually building up in my provisional decision. And I haven't been provided with any new evidence to change my mind on that.

### **Putting things right**

HSBC now need to do the following to put things right:

- Pay U £600 compensation for the loss of reputation and inconvenience it caused
- Pay U £982.82 for the penalty interest it had to pay to its principal supplier (R)
- Pay 8% simple interest on the balance it was withholding from 4 April 2023 until 15 September 2023\* HSBC must deduct £14,762.40 from this balance before calculating the 8% simple interest payable

\* If HSBC considers that it's required by HM Revenue & Customs to deduct tax from that interest, it should tell U how much it's taken off. It should also give U a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

For the reasons above, I have decided to uphold this complaint in part. HSBC UK Bank Plc must now put things right as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask U to accept or reject my decision before 28 October 2024.

Ketan Nagla  
**Ombudsman**