

The complaint

Mr E complains HSBC UK Bank Plc (“HSBC”) closed his account and applied a fraud marker against him despite informing it that he had been coerced into using his accounts for fraudulent purposes by criminals and the matter was being investigated by the police.

Mr E is represented by his father. But to keep things simple, I will mainly refer to Mr E in my decision.

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.

Following a review, HSBC blocked Mr E’s accounts in October 2023. When Mr E’s father became aware of what had happened, he reported that Mr E was being coerced by criminals to the police. He says the police told them to cooperate with the criminals whilst they investigated. In December 2023, HSBC closed Mr E’s accounts with immediate effect. HSBC also applied a CIFAS (Credit Industry Fraud Avoidance System) fraud marker against Mr E.

Unhappy, Mr E complained. HSBC didn’t uphold Mr E’s complaint. In summary, it made the following key points:

- It thanked Mr E for informing it that he had fallen victim to criminals who had coerced him into transferring funds on their behalf
- HSBC blocked Mr E’s account in line with its terms and conditions and didn’t need to give an explanation. As it wasn’t happy with the operation of the account and funds passing through it, HSBC closed Mr E’s accounts
- Mr E was sent a cheque for the closing balance

Mr E referred his complaint to this service. One of our Investigator’s then contacted the police and sent HSBC information and a request to review its position on this complaint. They explained the police’s involvement, Mr E’s young age at the time, and what he’d said about being coerced by criminals to act as a money mule.

In August 2024, following a review, HSBC said it had removed the CIFAS marker, but it wouldn’t reopen Mr E’s account. Our Investigator then sent both parties their recommendations on Mr E’s complaint. In short, their key findings were:

- HSBC closed Mr E’s accounts in line with its terms and conditions and it doesn’t need to provide an explanation
- HSBC doesn’t need to reopen Mr E’s account as it fairly exercised its commercial discretion when closing it

- Based on the information it had at the time, HSBC fairly applied the CIFAS marker. But subsequently after this service's involvement, HSBC agreed to remove it. HSBC doesn't need to do anymore

Mr E and his father were happy the CIFAS marker had been removed. But they feel, given the circumstances, particularly Mr E's young age at the time, HSBC should reopen his accounts.

As there was no agreement this complaint has 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 have decided not to uphold this complaint. I'll explain why.

Account review, restrictions, and closure

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.

HSBC has explained and provide me with evidence for why it reviewed and restricted Mr E's account. I'm satisfied it did so in line with its obligations.

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

HSBC closed Mr E's accounts with immediate effect once it completed its review. Having carefully reviewed HSBC's explanation and evidence, I'm satisfied its acted fairly and in line with its terms when doing so. HSBC is under no obligation to give Mr E an explanation.

I note Mr E feels that HSBC should reconsider given he was the victim of coercion by criminals and very young at the time. But HSBC has a duty to safeguard its customers and itself from financial harm. So, I don't think it's doing anything wrong by refusing to offer its banking service to Mr E going ahead.

CIFAS marker

The marker HSBC filed with CIFAS is intended to record there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, HSBC is not required to prove beyond reasonable doubt Mr E is guilty of a fraud or financial crime, but it must show there are grounds for more than mere suspicion or concern.

CIFAS says:

- that there are reasonable grounds to believe that a Fraud or Financial Crime has been committed or attempted
- That the evidence must be clear, relevant, and rigorous

What this means in practice is that a financial business must first be able to show fraudulent funds have entered Mr E's account, whether they are retained or pass through the account. Having looked at the information HSBC has given me; I'm satisfied it received reports of fraudulent funds entering Mr E's account.

Secondly, HSBC will need to have strong evidence to show the consumer was deliberately dishonest in receiving the fraudulent payments and knew it was, or might be, an illegitimate payment. A marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity.

HSBC has removed the marker given what Mr E has said about being the victim of crime and his young age at the time. So I don't need to make a finding on this point anymore nor do I think HSBC needs to do anything more either. I would add though that I'm pleased to see HSBC has considered Mr E's circumstances and acted in the way it has regards the CIFAS marker.

After weighing everything up, I'm satisfied HSBC has acted fairly in the circumstances of this complaint. So I see no basis to make an award of compensation.

My final decision

For the reasons above, I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 6 January 2025.

Ketan Nagla
Ombudsman