

The complaint

Mr W complains as a director of A, a limited company, that he has been unable to remove the block on A's account with HSBC UK Bank PLC, following his cards being stolen. He believes this is because HSBC has failed to make reasonable adjustments for his disability.

What happened

In October 2022, Mr W failed telephone banking security. In January 2023 he tried to reset the telephone banking by downloading and completing an online form. However, as his signature did not match the record on HSBC's system, it could not process the request. It advised Mr W of this by letter, but to his home address. Mr W reported to HSBC that his cards had been stolen whilst he was abroad, and requested for the company account to be blocked. HSBC advised that it couldn't send replacement cards overseas. On 28 February 2023 Mr W contacted HSBC by telephone and was advised about completing a new form.

Mr W says he couldn't complete the new form. He later advised us that this was because of his learning difficulties. Although he did tell the adviser at HSBC that he had tried to complete it several times. He returned to the UK in late May 2023. He advised that he made several visits to his local branch of HSBC but they were either too busy to help him or gave him access to a telephone when he needed in person assistance. He also said that the branch had closed its business department which made things difficult for him.

Mr W made a formal complaint to HSBC, in particular that because of his inability to access his account, he had not been able to run the business and it had lost money. He was told that HSBC hadn't made an error and reiterated that he needed to complete the online form or go to his local branch to have his signature reset – it didn't require any action by the business department. He insists that he tried to do this but that the branch wouldn't help him. In the course of dealing with his complaint HSBC offered a payment of £75 compensation for the inconvenience in visiting a branch several times. Mr W declined this.

On referral to the Financial Ombudsman Service, our Investigator said that HSBC had acted fairly and reasonably.

Mr W didn't accept this and said that his complaint was about discrimination and that this had been ignored. HSBC said that although it had been mentioned in passing it was not the major issue relayed to its complaints adviser. It contacted the branch, whose manager said that it didn't have a record of Mr W's visits. Nevertheless the manager said that it would have been able to update his signature and to send another form through. Although it couldn't help with commercial cards.

I issued a provisional decision. In it I said that I didn't think that HSBC had made reasonable adjustments for Mr W's disability in helping him reset his telephone banking. I proposed that it increased the compensation awarded to £400.

Mr W said he believes that the amount of the suggested award does not adequately compensate for the discrimination and suffering he has experienced and not being able to do business. He said that he has not been able to do business because of his account being

blocked. He has shown us details of an overseas property that A owns which he says has been unable to be rented or used for business purposes due to HSBC's actions. He says that A has lost £106,000 and millions of pounds of potential opportunities.

HSBC accepted my provisional findings and had no further comment to make.

The matter has been passed to me for an Ombudsman's consideration

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.

The following were my provisional findings:

"I should first of all make clear that the complainant in this case is A, a company. Mr W complains as representative of the company. As such a company cannot suffer distress so no compensation, if that was found, could be made for that. We can consider a complaint that a company has suffered inconvenience through its director and/or financial losses.

Mr W has complained that HSBC has failed to make reasonable adjustments for him. In other words, that it has failed its duty to make reasonable adjustments under the Equality Act 2010. It's not our role to say whether a business has acted unlawfully or not – that's a matter for the Courts. Our role is to decide what's fair and reasonable in all the circumstances. In order to decide that, however, we have to take a number of things into account including relevant law and what we consider to have been good industry practice at the time. So although it's for the Courts to say whether or not HSBC has breached the Equality Act 2010, we're required to take the Equality Act 2010 into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

Where the evidence is incomplete or contradictory, as some of it is here, I have to make my decision based on what I think is most likely to have happened. But it may be that I can't make a finding and if this is the case I shall say so. I have a duty to be impartial so I have to assess both parties' evidence fairly.

It is a little unclear but what I can ascertain from the evidence is that Mr W's complaint dates back to January 2023, when he completed the online form, and then to February 2023, when he first advised HSBC that his cards had been stolen. He asked for a block to be put on the account which made sense. However at that time his telephone banking was also not operational. He was told that replacement cards could not be sent abroad. HSBC has told us that this is its policy, which applies to all customers, so in my view it can't be discriminatory or a failure to make reasonable adjustments not to send the cards abroad in Mr W's case. Mr W did tell our investigator that he accepted this and wasn't making a complaint about it though he later advised that he was.

As far as completion of the form is concerned, Mr W tells us that he had difficulty doing this because of his learning difficulties. He told our Investigator that he had had assistance in doing this but that that assistance was no longer available. I don't think it was unreasonable that, for security reasons, HSBC sent the letter advising that the signatures didn't match to Mr W's home address. He did chase up HSBC by telephone soon afterwards and was told of the necessity of completing a new form. I don't think that HSBC was unreasonable in expecting him to complete a new form.

He later advised that he still hadn't received the cards despite the business debit card being sent to his address in November 2022 and the commercial credit card in May 2023. HSBC

did arrange for the cards to be cancelled and for replacements to be collected from his local branch. Again I can't find that HSBC acted unreasonably in this respect.

However on the question of not making reasonable adjustments for Mr W's disability, I'm not persuaded that the Bank has treated A fair here. I'll explain why.

Firstly although HSBC said that although it said that discrimination had been mentioned in passing it was not the major issue relayed to its complaints adviser, I think it was really the crux of Mr W's complaint about not being able to reset his online banking.

Turning now to Mr W's visits to the branch, I see that he told the adviser on 6 July 2023 that he had tried three times to see someone about completing the form and receiving his new cards. I believe he also attended the branch sometime in August 2023. He said that the staff in the branch were either too busy or gave him access to a telephone when he wanted face to face banking. Unfortunately there are no notes of such visits, and this may be because he didn't have an attended meeting with an adviser. The branch manager advised that:

"I can't see anything on folder history to suggest he had visited the Branch..., however resetting BTB* is straightforward, we would just get him to reset the form again, the last BTB reg failed on the signature so we could easily have updated his signature and sent up another form. Also change of addresses and card replacement can all be done in Branch, however Commercial Cards he would have to contact Commercial Card Services as we cannot deal with those in Branch."

*online banking form

So by July 2023 HSBC was aware that Mr W had difficulty in resetting his online banking and had tried to get help to do this on his local branch. But I don't think that putting him in a room with a telephone helped him when he had made clear that he had difficulties.

HSBC additionally said that whilst not all branches have a business section, they still have access to the same services, just via different channels.

Mr W says that HSBC failed him on the occasions he visited the branch. If he hadn't made an appointment then it may well be that the staff were busy, but as I don't have clear evidence of the interaction between the members of staff and Mr W I'm not able to make a finding in this respect. What I think is clear though is that it should have been a straightforward process for Mr W to reset his telephone banking, and thereby get the block on his account removed. On listening to his complaint call with the adviser, they did tell him, as the branch manager did in the quote above, that it should have been straightforward to reset the form.

But HSBC was aware that Mr W had difficulty in resetting his online banking and had tried to get help to do this in his local branch. But I don't think that putting him in a room with a telephone helped him when he had made clear that he had difficulties. And I don't think that the branch manager's comment was helpful. The process is, I believe straightforward but not for Mr W. And this is why I don't think that HSBC has made reasonable adjustments.

It does appear that at the time of making his complaint, although Mr W mentioned discrimination, this did not come across as his major issue, which he has subsequently told us that it was. But, as I've said HSBC was aware of Mr W's concerns and failed to address them.

As regards the closure of its business section in Mr W's local branch, unfortunately such closures are common. I don't think it was unreasonable since as HSBC says, the business section can be contacted via different channels. But what those channels are or what help

Mr W could have been given in contacting them, is not clear.

So I don't think that HSBC acted unreasonably or unfairly in processing Mr W's request for new cards to be issued. But I don't think that it made reasonable adjustments for Mr W's disability in helping him reset his telephone banking. Mr W believes that what HSBC has done goes beyond poor customer service. He's felt discriminated against. I can understand why he feels this way, and I do think HSBC hasn't quite grasped how its actions have impacted A or Mr W as its director. It has offered £75 in respect of the inconvenience of visiting the branch several times. But I don't think that is sufficient.

In response to this provisional decision, Mr W should provide us with evidence of the business losses he says A has made, and any costs for his abortive branch visits."

First of all I should make it clear that if Mr W has had further issues concerning his accounts or cards, I can't deal with those here. He will have to raise them as further complaints to HSBC.

As regards compensation, as I have set in my provisional decision and in communications with Mr W, he acts as a representative of the limited company and does not complain in his own right. So any compensation for inconvenience can only reflect how it affected the company rather than Mr W personally.

As regards compensation for financial losses, Mr W asserted that A has made substantial losses from not being able to let a property it owns. He should be aware that in order to assess financial losses we would need to see actual evidence that financial losses have been made. Apart from a brochure detailing the property, I haven't seen evidence of any losses, still less that those losses were caused by the blocking of the HSBC account. And I should make it clear that I can't award compensation for speculative losses, or future losses.

I should make the further point that Mr W will be aware of his duty to mitigate losses. And whilst I have found that HSBC could have been more helpful to him in dealing with the unblocking of his account, if A really was making losses into the millions (which are far in excess of any award I have the power to make), I haven't seen any evidence that he made any attempt to mitigate those losses. I appreciate that he's had poor health but that doesn't mean I can hold HSBC responsible.

So overall I remain persuaded by my provisional findings, as set out above. Those findings are now final and form part of this final decision.

Putting things right

HSBC should take the following actions:

- Arrange a face-to-face appointment for Mr W at his local branch to reset his telephone banking.
- I believe that new cards have been issued at least twice to Mr W but if he hasn't received those, he should request HSBC to cancel them and for him to be able to collect new ones from his local branch.
- Increase the proposed compensation award to £400 to reflect the inconvenience caused to A in respect of not being able to use the business account.

My final decision

I uphold the complaint in part and require HSBC UK Bank Plc to provide the remedy set out under “Putting things right” above.

Under the rules of the Financial Ombudsman Service, I’m required to ask A to accept or reject my decision before 11 December 2024.

Ray Lawley
Ombudsman