

## The complaint

Ms K complains about how HSBC UK Bank Plc delayed giving her access to the funds in her dormant savings account.

## What happened

Ms K had a savings account with HSBC which contained a large amount of funds and *'all of her liquid assets'*. For personal reasons she didn't use this account and due to this inactivity HSBC made it dormant.

Ms K was living overseas, in Country A, and during the pandemic she felt vulnerable. This was due to her age, worsening health, need for support from her family, care requirements and rising care costs.

In June 2021, a family member acting on behalf of Ms K contacted HSBC requesting reactivation of her dormant savings account. However, HSBC were unable to fulfil this request as the identity documents provided didn't meet their security requirements.

Later in 2021, Ms K made a verbal request to close her dormant savings account and the transfer of funds to an HSBC account in Country A, but this was also declined for the same reasons.

Ms K then instructed a lawyer, and in June 2022 they sent HSBC the documentation they thought was required. But HSBC rejected this as it still didn't meet their criteria.

In August 2022, HSBC registered a complaint about their rejection of the lawyer submission and upon investigation sent a response which explained their rejection reason, set out their documentation requirements and gave Ms K rights to refer the complaint to our service within six months.

Despite HSBC's August 2022 complaint handling process and response, Ms K continued to experience problems and her account took until November 2023 to be reactivated. This is because:

- Although HSBC received a copy of Ms K's passport in November 2022, as the name on her passport didn't match the name on her account, they required a change form to be completed. And there was a delay in Ms K receiving this form.
- When HSBC received the completed name change form in April 2023, they were unable to complete the verification check. This is because it wasn't sent to a branch as requested.
- When the branch received this, in June 2023, they identified certification issues and requested the documents to be resent.
- HSBC received the resubmitted documents in October 2023 and agreed to reinstate Ms K's account in November 2023.

Then, in December 2023, when Ms K was finally able to make a request for the account to be closed and the funds to be transferred to an external bank account this wasn't actioned until February 2023. This was due to an HSBC processing error.

HSBC made an additional mistake; however this was in Ms K's favour. When compensating Ms K with interest for the delay actioning her transfer request, they overpaid Ms K by £937.95. HSBC decided not to recall or request this amount.

In a further complaint response, HSBC offered an apology and £150 compensation for not:

- Explaining what was needed and why.
- Exploring Ms K's requirements.
- Considering potential support to Ms K when *'a Power of Lawyer equivalent document' was presented to a UK branch in October 2021.'*

Ms K's representative escalated a complaint to our service seeking compensation of between £20,000 and £40,000. This is because Ms K considers:

- HSBC was obstructive and their communication was poor.
- The account should've been reactivated in early 2022.
- The account funds would've earned interest of far more than the HSBC savings account when transferred.
- She incurred legal fees of approx. £3,000.
- As a vulnerable customer she experienced significant upset and distress over a long period of time.

Ms K's complaint was considered by our investigator. However, he said:

- He was unable to comment on whether HSBC did anything wrong prior to August 2022.
- He hadn't seen anything to suggest HSBC caused any unnecessary delays after August 2022 except the December transfer request.
- He considered the compensation HSBC paid to be fair and reasonable.

As Ms K remains dissatisfied her complaint has been referred to me to look at.

### **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, although I empathise with the frustration and inconvenience Ms K experienced, I'm also not upholding this complaint. And I'll explain why.

I should first say:

- It has clearly been a very difficult time for Ms K and her family, and I'm very sorry to hear about Ms K's situation, health issues and difficult financial position. However, I must approach this matter objectively.
- I've focused on what I think are the important points to reach a final decision. However, I've carefully considered all the points Ms K and her representatives have made, even if I don't specifically address them all.
- I'm satisfied HSBC were made aware of Ms K's health condition before August 2022

and I consider Ms K to be a vulnerable customer which means the Financial Conduct Authority's (FCA's) guidance on the subject applies.

### Complaint Handling Rule

After a consumer complains to a business and has received the business's final response, they have six months from the date on the final response to refer the complaint to us.

If a consumer complains later than this, we usually won't be able to help unless the delay is due to exceptional circumstances, the business didn't send a valid final response or the business agrees to us being involved after the 6 month time limit has passed.

As HSBC sent Ms K a valid complaint response letter giving this 6 month referral right, I made further enquiries with HSBC to determine whether there is an exceptional circumstances here and whether events prior to August 2022 should be considered. This is because:

- A. Ms K's representatives feel that our service should be considering the period prior to August 2022 despite HSBC have given them complaint referral rights to our service six months after their August 2022 complaint response letter, as they didn't:
  - a. Make an '*explicit request*' for HSBC's complaint handling procedure.
  - b. Follow up on the complaint as '*at the time, we were baffled, and ignored those "complaints" and their resolutions, as we were 100% focused on the actual substantive matter.*'
- B. In HSBC's November 2023 complaint response letter, HSBC referred to support failings that occurred prior to August 2022, that weren't addressed in their August 2022 complaint handling correspondence.

I recognise that by not considering events prior to August 2022 Ms K can't be compensated for distress, inconvenience and financial loss (loss of interest and to instruct a lawyer) caused by a lack of support before this date.

Despite me pointing out point B to HSBC they declined to give our service permission to look at events prior to August 2022. However, for the following reasons, I don't think HSBC's position (to decline) here is unfair or unreasonable and I can't reasonably conclude that exceptional circumstances apply here:

- There is a record of a complaint being lodged in August 2022
- The complaint was about:
  - '*Identification of personal details and proof of details*'.
  - Service dissatisfaction.
- Although HSBC neither commented or addressed a lack of support prior to August 2022, I'm satisfied they considered their service and clearly communicated opportunities for Ms K to escalate her complaint to our service within six months.
- Ms K was aware she could escalate a complaint to our service as in an email to HSBC on 22 August 2022 she said, '*If you do not proceed with the up-date of my details I will lodge a complaint to the Financial Ombudsman Service*'.

I can understand Ms K and her family being extremely disappointed that I can't consider the period between June 2021 and August 2022 as this was a very difficult period for Ms K and in addition to experiencing inconvenience and distress, she was financially disadvantaged. This is because her funds could've attracted a higher level of interest and she found it necessary to instruct a lawyer.

Also, HSBC knew Ms K was a vulnerable customer. And, in November 2023, they offered an apology and some compensation recognising their service should've been better prior to August 2022.

#### Compensation period

The compensation period is complicated here because prior to August 2022 Ms K instructed a lawyer to represent her.

HSBC have determined that an interest payment should be made from December 2023, however I considered whether it should be from an earlier period.

Based on correspondence from Ms K's lawyer and the following comments in an email sent to HSBC from Ms K's family representative on 11 November 2023, I'm satisfied that Ms K's lawyer was acting on her behalf for the period between August 2022 and late October 2023:

- *'Here is a summary the lawyers sent me in late September 2023, when I finally lost patience and decided to step back in'.*
- *'On 25 October 2023, after repeated attempts by the lawyers to get HSBC UK to confirm receipt of the re-submitted verified copy of the passport received no response, I wrote to the HSBC email address with which the lawyers had been corresponding'*

I'm also satisfied that HSBC had given Ms K's lawyer clear information on what documentation was required from Ms K.

Although I think HSBC should've recognised Ms K as a vulnerable customer and helped her with support prior to August 2022, which may have meant it was unnecessary for her to fund support through a lawyer, I think Ms K, through her lawyer, should've been able to meet HSBC's requirements prior to October 2023.

I appreciate Ms K instructed a lawyer to resolve matters on her behalf, and I empathise that they weren't able to provide HSBC with the documentation required to release her funds in accordance with their procedures designed to protect consumers accounts. But I don't think it would be fair or reasonable to expect HSBC to either have changed their requirements or accept responsibility and pay compensation for delays where a lawyer instructed by Ms K was in a position to follow HSBC's clearly set out requirements.

By October 2023, HSBC were in receipt of the required documentation, and considering the further validation and payment instruction requirements, I don't think the time period between October and December 2023 to have been unreasonable.

HSBC acknowledge they should've processed the account closure request in December 2023 and agreed to pay interest from this period together with some compensation. Considering the above I think this is fair and reasonable in the circumstances.

#### Compensation

HSBC offered to pay Ms K interest of 8%, which is in line with our guidance, from the date the request was made until the date the balance of the account was released. And I consider that to be fair and reasonable.

HSBC also offered to pay a further £150 in compensation for this error. I appreciate this sounds very low considering the amount of time Ms K has been without her funds and the distress and inconvenience she experienced in this timeframe.

However, for the following reasons I don't think this is unreasonable:

- I can't look at or consider any errors made prior to August 2022
- I consider Ms K to be a vulnerable customer supported by the lawyer she instructed.
- Whilst there was a significant delay between August 2022 and December 2023, I can't see that HSBC were responsible for the delay in this period.
- Assessing compensation isn't an exact science and our approach when making awards for non-financial loss is detailed on our website and tends to be modest.
- When considering HSBC's decision not to recall or request repayment of the amount of £937.95 that they mistakenly overpaid when compensating Ms K with interest, I think the total amount HSBC have paid here of £1087.95 is fair and reasonable and exceeds the compensation amount we would recommend.

So, having considered all the above and all the information on file, whilst I appreciate Ms K and her family who have been supporting her will be disappointed, I'm not upholding this complaint.

### **My final decision**

My final decision is that I'm not upholding this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 3 March 2025.

Paul Douglas  
**Ombudsman**