DRN-5710430

The complaint

Mrs B complains that HSBC UK Bank Plc ("HSBC") unfairly applied an inhibit to her joint account held with her estranged husband Mr B.

What happened

Mr and Mrs B held a joint account ending in 9268 with HSBC where the statements show their joint household expenses and bills were paid from. On 8 July 2020 £8,000 was transferred into the account and then out to Mr B on the same day.

On 15 July following a marital dispute Mrs B transferred around £3,000 out of the joint account and then transferred £500 back in – she says to ensure there was enough money to pay the bills and the account wouldn't go into overdraft.

Mr B called HSBC and informed it he had concerns over Mrs B's mental health, she had disappeared and that she had depleted the joint account funds and that he had no money to pay the bills and direct debits. HSBC's notes record that it:

"advised him to go to branch to provide documentation regd joint account holders health and discuss the accounts."

However, despite this it added a "Notice of Mental Incapacity" and applied an inhibit to the account without any evidence, contact or discussion with Mrs B.

On 17 July on the instruction of Mr B HSBC opened a sole account for him and HSBC's internal notes record it:

"removed inhibit in order to allow funds of joint holder income to be moved to new acc added inhibit again once funds moved as per cginfo".

The account statements show the remainder of the joint account funds (£623.22) were transferred to Mr B's new account. Following this HSBC reapplied the inhibit.

To remove the inhibit HSBC required Mrs B to evidence her mental capacity with a letter from her doctor which was provided by Mr B around three months later and the inhibit was removed on 2 October 2020 and Mrs B started reusing the account.

In July 2024 following contact from Mrs B HSBC converted the joint account into Mrs B's sole name.

Following this on 11 October 2024 Mrs B complained to HSBC it never contacted her before the freeze was applied and that it had no right to inhibit the account.

HSBC didn't uphold Mrs B's complaint stating that it followed the correct policy at the time by putting an inhibit on the account and so Mrs B brought her complaint to this service.

Mrs B says she was suffering with bereavement issues and was in the early stages of a divorce and to say she had mental capacity issues was both false and slanderous. Mrs B says that the actions taken by HSBC helped facilitate the start of financial abuse and control exerted over her by Mr B.

HSBC told this service that it was unable to say what processes it had in place at the time regarding mental capacity but say its specialist banking team historically would place inhibits on joint accounts to safeguard but wouldn't require any evidence to do this, but it would require information on how the customer became mentally incapacitated and their living arrangements.

It says the inhibit would only be removed once medical evidence is forthcoming to confirm that capacity is now retained and that it appears that it followed the correct guidelines.

Our investigator looked into Mrs B's concerns but didn't agree that HSBC acted unreasonably by freezing the account as based on the information it had there was a dispute and it was allowed to do this under the terms of the account and so they didn't think HSBC had done anything wrong.

Mrs B says the actions HSBC took in freezing the account were unjustified and applied unfairly. She says HSBC failed to get any proof Mr B's claims were true before taking the action it did and within 48 hours of freezing the account HSBC opened an account for Mr B and allowed him access to the joint account to make amendments to his payments and transfer the remaining funds despite the freeze.

Mrs B wants to be compensated and a written apology from HSBC and has asked for an ombudsman's decision on the matter.

I issued my provisional decision on 1 July 2025. In my provisional decision, I explained why I was proposing to uphold Mrs B's complaint. I invited both parties to let me have any further submissions before I reached a final decision and while HSBC has accepted my provisional decision, Mrs B has elaborated on information previously provided and asked that the compensation recommended be revisited.

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.

In my provisional decision I said that:

"Firstly, I need to be clear that this decision only relates to the actions HSBC took on Mr and Mrs B's joint account which is now held in Mrs B's sole name and I will not be addressing Mrs B's complaint about her business account which I understand is being looked at separately.

It might be helpful for me to say here that, I don't have the power to tell HSBC how it needs to run its business and I can't make HSBC change its policies or processes – such as how or when it places a block or inhibit on a customer's account and what it needs to remove this. And nor can I say what procedures HSBC needs to have in place to meet its regulatory obligations. We offer an informal dispute resolution service and we have no regulatory or disciplinary role.

That said I don't think it is unreasonable for it to have processes in place – in this case applying an inhibit or other precautionary measure to an account when there is a dispute *between account holders, or it has legitimate concerns about an account holders mental capacity until it can satisfy itself that the issue no longer remains. As I'm sure Mrs B understands this is needed in order to ensure the safeguarding of its customers financial affairs.*

And in this case given what Mr B had told it and the depletion of the funds from the account – by both account holders over the preceding weeks - I think it was reasonable for it to have some concerns and to put in place precautionary measures such as restricting access to the funds until it could speak to Mrs B and get her side of events.

But it didn't do this and as I understand it failed to take any proactive action in getting Mrs B's version of events and solely relied on what Mr B told it. I would've expected it to at least try to contact Mrs B and inform her what was happening and get her side of the story. And I would've expected HSBC to want some evidence of Mrs B's mental incapacity before deeming her not to have capacity to manage her financial affairs. Indeed, the initial advice HSBC gave to Mr B supports this when he was told he needed to provide documentation regarding Mrs B's health and to discuss the accounts.

There is a legal presumption that an adult has the mental capacity to manage their finances and make their own decisions. But HSBC made the opposite presumption here instead asking for evidence Mrs B had the capacity to manage her financial affairs and then it failed to provide any support with her banking despite clearly being in difficult circumstances and vulnerable.

I accept that applying the inhibit in the situation was a responsible safeguarding action to take as there was clearly a dispute. But HSBC failed to follow this up with any investigation and then it failed to apply the same rules to both joint parties and lifted the inhibit for Mr B and effectively allowed him to do what he was accusing Mrs B of doing – depleting the account – when he moved the remaining funds over to his newly opened account.

And so I currently think Mrs B's complaint should be upheld.

I can't say what position Mrs B would be in if HSBC had done everything right and nor can I make a decision on who is entitled to what funds – that is something for the courts to decide – but I do think Mrs B should be compensated for the distress and inconvenience she suffered.

The inhibit was in place for three months, but I can see that the account was depleted of its funds on the second day of the freeze and so it was effectively inactive from this point onwards - only being funded to cover any outgoing payments.

I haven't seen anything to show me that Mrs B contacted HSBC regarding the inhibit while it was on or to ask for it to be removed. And as Mrs B was still able to use her sole account ending in 2625 - which she had funded from the joint account - I don't think she was without access to money to pay for her day to day living. So on this basis I think £300 compensation for any distress and inconvenience suffered would be a fair way to resolve this complaint. I also think HSBC should apologise to Mrs B for the impact it had on her having her mental capacity to manage her financial affairs questioned without proper evidence of this.

So it follows that I currently intend to uphold Mrs B's complaint."

I've considered Mrs B's latest submissions and while I sympathise with her position ultimately I don't think it materially change the outcome of my provisional decision and the compensation I think is fair, and so I see no reason to depart from the conclusions set out in my provisional decision. It follows that I uphold this complaint.

Putting things right

- HSBC should issue Mrs B a written apology using the email address it holds on record for her; and
- Pay £300 compensation for the distress and inconvenience caused.

My final decision

My final decision is I uphold Mrs B's complaint and direct HSBC UK Bank Plc to apologise and pay the fair compensation as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 20 August 2025.

Caroline Davies
Ombudsman