

complaint

Miss M complains that HSBC UK Bank Plc has stopped allowing third parties to pay into her bank account.

background

Miss M holds a bank account with HSBC. Until 31 October 2018 her father and partner were able to pay money into her bank account in branch. But after this date HSBC changed adopted a new policy which led to it changing the way it was intending to deal with cash deposits in branch.

Under HSBC's new policy only the account holder is able to deposit cash into their bank account at a branch counter or self-service machine. Third parties are now prevented from paying cash into someone else's bank account unless they, for example, hold a Power of Attorney (POA) or are third party mandate holders. So the new policy means that Miss M's father and partner are no longer able to pay cash into her bank account in branch unless they hold a POA or she sets up third party mandates in their name.

Miss M is very unhappy with this new policy and complained to HSBC about it. She said she suffers from a number of health needs or disabilities – namely agoraphobia and PTSD – which prevent her from leaving her home. So she feels the restriction against third parties depositing money in to her account is restricting her own use of her bank account. She believes that the way she is being dealt with by HSBC is breaching the Equality Act 2010. And she feels HSBC are discriminating against her by implementing this policy. But HSBC disagrees with this. It says it's made reasonable adjustments, which permit third parties to deposit cash into an account. And it says it's informed Miss M of these alternatives.

Miss M remains unhappy with HSBC's response to her complaint so she referred it to our service. Our investigator looked into this and, while they empathised with Miss M, didn't recommend that it should be upheld. They didn't think HSBC had treated Miss M less favourably due to her health conditions and disability. And they didn't agree that HSBC had breached the Equality Act in the way it had dealt with Miss M. So, they didn't think it had done anything wrong here. But Miss M didn't agree with our investigator. So this complaint has been referred to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I recognise that Miss M feels very strongly about the issues raised in this complaint, which is understandable. And I can appreciate that HSBC's new policy means she will have to find alternative ways for her father and partner to deposit money into her account in branch, which must be upsetting and frustrating. But taking everything Miss M and HSBC have said into account I don't think HSBC did anything wrong here. I know Miss M will be disappointed with my conclusions so I'll explain why I don't uphold this complaint.

Because Miss M's health conditions restrict her ability to leave her home, I can appreciate how reliant she would be on her father and partner making cash deposits into her account in such circumstances. She isn't able to pay cash into her account in branch herself. But HSBC's decision to introduce a new policy to restrict the ability of third parties to deposit

cash into someone else's account is a business decision it's entitled to make. And, this isn't a decision we can interfere with.

I also can see from the terms and conditions of Miss M's account that HSBC are entitled to make changes to the accounts rules, which is what it's done here. So, I can't say it's done anything wrong by implementing a new policy, which HSBC says has been introduced to help tackle potential financial crime. This is something that banks have a duty to safeguard against and it's a matter for HSCS to decide how it does that.

But sometimes where a business strictly follows its policies and procedures it can lead to an unfair outcome for an individual consumer. This is something this service can look at. So, I've thought about whether adopting this new policy has unfairly restricted Miss M's ability to use her account in view of her health. And I've thought about whether HSBC has made reasonable adjustments to remove the barriers someone in Miss M's position would most likely face due to the change in policy.

It's clear that Miss M feels victimised and discriminated against and that her experience with HSBC is breaching the Equality Act 2010. The law is one of the things I must take into account in making my decision. Under the Equality Act, businesses should anticipate barriers which customers with disabilities, for example, might face when using services. And they should also take steps to remove those barriers as far as possible. Businesses are required to make reasonable adjustments to their services so that, as far as possible, people with a disability aren't disadvantaged and receive the same service as people who don't have a disability.

Miss M feels that HSBC hasn't made any reasonable adjustments, which accommodate her health difficulties. But I can see that it's offered her alternative ways for third parties to pay funds into her account. Specifically it has told Miss M that a third party can deposit cash into their own account and then transfer it electronically or offline (via cheque or over the counter of their bank) from their account to Miss M's account. HSBC has also explained that a third party could become a third party mandate or POA, which would enable them to pay cash directly into Miss M's account in branch. So it does appear HSBC has made reasonable adjustments for customers who aren't able to attend their branch to deposit cash.

Miss M says she doesn't want to set up a power of attorney because this would remove her independence. And it's, of course, entirely within her discretion to decline to make this choice. As an alternative to a power of attorney arrangement, Miss M is able to set up a third party mandate to account, which would allow her father and partner to pay money into her account in branch. This is the least intrusive option available to Miss M because she would be able to retain control over her account.

From looking carefully at the third party access guidance from HSBC it's clear that a third party mandate is suitable for an account holder who, for example, is housebound. It can be set up by post. So, Miss M wouldn't need to attend her branch in order to set up this arrangement. And an account holder can nominate multiple parties to act on their behalf and restrict what those third parties are able to do with their account.

I'm persuaded that if Miss M's father and partner were set up as third party mandate holders they would, most likely, be able to make cash payments into her account as they had previously done. So, I'm satisfied that in offering this option to Miss M HSBC has provided a reasonable alternative to Miss M, which means that she won't be disadvantaged by her inability to attend the branch in person.

Miss M said she doesn't want to set up a third party mandate. But I think this option and the POA alternative are reasonable adjustments that HSBC tried to make, albeit ones that Miss M has chosen not to accept. Based on the evidence I've seen, it's clear HSBC offers a variety of options where a customer isn't able to attend their branch to deposit cash. I think in doing so it's foreseen potential barriers that would face someone who is housebound.

I'm satisfied that by offering the alternatives it did, which could be used by customers who are unable to attend their branch, HSBC met its obligations under the Equality Act. It's taken steps to remove the barriers that would face someone in Miss M's position to ensure that, as far as possible, she receives the same service as someone who is able to attend their branch. It follows that I'm not persuaded that HSBC has breached the Equality Act or acted unfairly by implementing its new policy.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 6 July 2019.

Julie Robertson
ombudsman