

Ombudsman Decision**CIFO Reference Number: 24-000051****Complainant: Mr L****Respondent: HSBC Bank Plc, Jersey Branch****Complaint**

Mr L complains that HSBC Bank Plc, Jersey Branch (“HSBC”) caused him to suffer financial loss and severe distress and inconvenience (“D&I”) by blocking and subsequently closing his accounts.

Background

Mr L had been a customer of HSBC Plc most of his life. To facilitate multi-currency payments, he opened an HSBC Expat account in June 2022. He had a number of accounts in different currencies, totaling approximately £10,000. At the time of the events relating to his complaint, Mr L had moved back to the UK from Shanghai and had a partner residing in Cambodia.

HSBC emailed Mr L on 11 March 2023 asking him to provide information about certain payments that had been flagged on his account. From this point, HSBC blocked Mr L’s accounts. Over a year later, Mr L received a letter from HSBC on 31 May 2024 advising him it had decided to close his accounts. Mr L’s accounts were closed and the funds transferred to an alternative bank on 24 June 2024, just over 15 months after his accounts were first blocked.

HSBC acknowledged that the length of time the accounts had been blocked and the service offered to Mr L during this time was not as it should

¹ Financial Services Ombudsman (Jersey) Law 2014 Article 16(11) and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 Section 16(10)

have been and offered him £2,000 in compensation: £1,000 for lost interest and £1,000 for the D&I caused to him.

Mr L rejected this offer and submitted a complaint to CIFO in which he requested consideration for £10,000 in compensation, stating:

'I can honestly say it has negatively affected my life to a large degree over the last year including a break down in some of my relationships, putting a stop to all my plans and affected my work. I do understand the bank has to comply with regulators but I think in my case and many others there has been a clear downfall in how the customer has been treated and feel it has been on the whole unreasonable'.

Because he had submitted previous complaints to HSBC regarding past issues with customer service, to clarify the scope of the complaint, the CIFO Adjudicator confirmed with Mr L that the review was in relation to HSBC complaint reference 1050658 only, and covered the following main points, in line with the final response letter from HSBC dated 19 July 2024:

1. Restrictions placed on Mr L's HSBC Expat Accounts and the timeframe involved.
2. Refer a Friend incentive non-payment.
3. Incorrect Tax Residence Countries being added to his banking profile and whether this impacted on the restrictions being placed on his account.
4. An erroneous account closure e-mail being sent to Mr L.
5. Failure to act on a Data Subject Access Request ("DSAR").

The CIFO Adjudicator concluded that she upheld Mr L's complaint and agreed that the total of £2,000 in compensation offered by HSBC was fair and reasonable in the circumstances. Mr L did not accept the recommendation and requested an Ombudsman's review and Final Decision.

Subsequent Submissions

Requesting a Final Decision, Mr L responded at length to the CIFO Adjudicator's recommendation. HSBC said it confirmed the 'refer a friend' incentive had been paid to Mr L and that it had reached out to him to obtain details of the other party to make payment. It also said it was at present unable to provide an update on why the tax residence on Mr L's account had changed and that this investigation was ongoing.

Findings

I have considered all the available evidence and arguments to decide what is, in my opinion, fair and reasonable in the individual circumstances of this complaint. For the purposes of my review, I focused on submissions I considered to be material to my decision in relation to this complaint. Where necessary or appropriate, in particular where information may be missing or incomplete as in this case, I reach my conclusions on the balance of probabilities; that is what I consider is most likely to have happened, in light of the evidence that is available and the wider surrounding circumstances.

My starting point is that I will not review a failure of HSBC to respond to a DSAR. That is a matter for the relevant data protection regulator. I note that the CIFO Adjudicator correctly referred Mr L to the Office of the Information Commissioner. Mr L needs to raise a complaint through this channel should he wish to take this specific aspect of his complaint against HSBC any further.

As noted above, my review and Final Decision relate to HSBC complaint reference 1050658 for which the bank's final response and offer of £2,000 in compensation applies. I understand that the previous complaints have been closed by HSBC with relevant compensation paid, and therefore did not form part of the CIFO Adjudicator's recommendation, and do not relate to the £2,000 compensation offered to Mr L in the context of this complaint. Those other complaints therefore do not fall within the scope of my review.

The central point of this complaint is the blocking of Mr L's accounts and the time taken for HSBC to resolve its position regarding a decision to ultimately close his accounts and release his funds. In asking for my review, Mr L said:

'I believe based on my submissions over the last couple of weeks that these errors, delays and confusing requests and replies were either due to extreme negligence or on purpose.

....where the response was confusing and stated that the statements did not answer their query, when their query only requested statements. I then simply asked them for clarification which again took months of repeated requests which was never clarified to date. I again believe this indicates negligence and bad faith as I have referred to in many other examples.

I do not think the bank applied the block to my account in error....but I do believe the review was negligently carried out to a point...many mistakes and errors were made by the people involved. I feel due to the mistakes...the bank acted in bad faith and sent memos (approximately 6 months into the review) to my other HSBC accounts worldwide. Therefore, I do believe the decision to close my China HSBC, UK HSBC was due to their administrative errors and negligence leading up to that point where I would be classed as high risk, when in actual fact I might not have been.'

Mr L continued to say that HSBC's actions created '*...a loophole for them to freeze funds to do what they want with, without oversight. It is my belief that if this is the case that they are grossly illegally misappropriating peoples (sic) funds under the banner of security reviews, as their offshore business is effectively failing.'*

My starting point is that HSBC had the right to block, and ultimately close, Mr L's accounts. I accept that banks need to meet legal and regulatory obligations that require them to review activity across all the accounts held by a customer to prevent the inappropriate use of bank accounts and ensure they are in accordance with the bank's risk appetite. These obligations are imposed on HSBC by the relevant regulatory body as conditions of its licensing to operate. However, to meet these obligations, I would expect HSBC to maintain a set of procedures that it should follow and to issue terms and conditions for the accounts under its administration. The procedures require HSBC to monitor and report on account activity where applicable. The terms confirm to an account holder that, as a result of the procedures it follows, it is permitted to restrict any account where it deems it necessary and is not required, or in some cases is not permitted by law, to notify the account holder or to provide an explanation or reason for its actions.

Mr L believes that he had been incorrectly flagged as 'high risk' because he saw that both Brazil & Kazakhstan had been incorrectly listed as tax residency countries on his account profile. HSBC said that that '*this [the incorrect tax residency countries] has not negatively or otherwise impacted your banking with HSBC Expat.'* I am satisfied that the review of Mr L's account was due to specific transactions and had not been due to queries or a risk assessment over the tax residency references on his banking profile. Therefore, I do not find the potentially incorrect tax codes assigned to Mr L's account profile as material to Mr L's complaints regarding his customer experience.

Mr L considers the decision to block his accounts to be negligent and with the intent to '*illegally misappropriating peoples funds*'. I do not find this assertion to be well-founded. I do not find HSBC blocked his accounts for any reason other than to meet its perceived legal and regulatory obligations and in-line with the terms of the accounts.

When contacted by the bank, it seems Mr L felt that his verbal confirmation of the source of funds for specifically identified transactions should have been enough. However, because of the bank's ongoing reporting obligations to the regulator, I do not expect HSBC to accept personal assurances from account holders without sufficient supporting documentation. Therefore, I find it reasonable for HSBC to have asked Mr L for specific documentation regarding transactions made into and out of his accounts and for bank statements from other accounts held within the group. I note that Mr L provided the requested information when asked and where available.

That the account block affected Mr L personally does not mean HSBC's actions were intended to harm him. HSBC's decision to close his accounts indicates to me that the bank was unable to satisfy its concerns and therefore comply with its regulatory obligations based on the information Mr L provided. While any account closures in other jurisdictions do not fall within my statutory remit to review, I do not find it surprising that a decision to close a customer's accounts in Jersey would have resulted in a cross-group account closure affecting HSBC accounts held by the customer in other jurisdictions. I would consider this to be standard risk management and compliance practice for an international bank in order to mitigate the concerns the bank identified through its account review.

Mr L believes the closure of his account with HSBC in Shanghai was the cause of him losing his job. While I sympathise with Mr L on this unfortunate development, I do not see evidence that supports this claim. I find this to be an unrelated, albeit unfortunate event. Mr L has stressed that he wishes my review to consider how he had been dealt with by a number of people in the HSBC complaints team and how the bank failed to understand how vulnerable he was during this time and did not take this into consideration in its dealings with him. I accept that, prior to his account being blocked in March 2023, Mr L had been in Shanghai during the 2022 Covid lockdown. That this situation caused him stress is not in doubt, but given the timing when his accounts were blocked the following year, after Mr L had moved away from Shanghai, I do not find I can reasonably hold HSBC responsible for exacerbating that stress.

I accept that the timeframe for an account review can be lengthy. I also appreciate that an indication of how long it will take is difficult to predict. It would be subject to the queries raised and information needing to be provided. Reviewing all the communications and calls available to me between Mr L and HSBC, I find that the information Mr L provided to the bank was not processed as efficiently and in as timely a manner as it could have been. I therefore find that HSBC did not follow its own procedures as effectively as I would have expected. This resulted in an unnecessary delay of the bank's ultimate decision to close Mr L's accounts and Mr L's ability to access his frozen funds. During this time, I can see that HSBC incorrectly sent Mr L an account closure notice before a decision to close his accounts had been made. While I appreciate this would have been frustrating, I consider this to have been a simple administrative error in the circumstances, which HSBC acknowledged. I have taken that into account in considering the amount of compensation awarded for non-economic loss.

Mr L felt he suffered a financial loss by being unable to undertake plans to build a house during the period in question, and felt he missed investment opportunities. I appreciate Mr L may have had to change his plans to adapt to the delay in accessing his funds in his HSBC accounts. Although frustrating, I find these losses claimed to be speculative and based on assumptions that could have been affected by any number of other events, all beyond the control of HSBC. Therefore, I do not consider these claims to be actual financial losses that I would reasonably require HSBC to reimburse. The award for lost interest takes account of the time value of the funds held for that period.

My final point is that HSBC confirmed that the instruction for payment of £250 for the Refer a Friend incentive had been made on 22 July 2024 and so I find it more probable than not this amount was paid to him. The incentive to be paid to the friend Mr L referred remains a point for HSBC to resolve once the party's details have been confirmed by Mr L and does not form part of my conclusions in this matter.

In concluding its review of Mr L's complaint, HSBC acknowledged the length of time it took for it to decide to close Mr L's accounts, and offered him a total of £2,000 in compensation made up of:

1. £1,000 for lost interest on his money over the 15-months his accounts were blocked. Mr L said that he was told it would take up to ten days to unblock his account and he accepted that *'if it was 3 months I may still have been affected but I feel it would fall into the realm of being reasonable'*. As I accept this aspect of Mr L's

complaint, and also agree with his suggestion that 3 months would have been a reasonable period for this to have been resolved in the circumstances, I would expect interest to be applied to the blocked funds for a total period of 12 months at a simple rate of 8%, in accordance with CIFO's general approach to loss calculation. I calculate the interest payable to Mr L to be £830.68. Given HSBC have already offered £1,000 in lost interest, I consider that amount offered to be reasonable and do not consider any award further award of interest to be warranted.

2. £1,000 for the distress and inconvenience (D&I) caused by the lengthy delay in Mr L being able to access his money. Referring to our general approach to compensation for D&I, I consider this fair and reasonable in the circumstances given the level of inconvenience caused. I appreciate that Mr L believes the impact on him warrants a higher award, based on our general approach to compensation. He considers the impact on him as being in the 'Severe' category, over £5,000 on CIFO's published guidance. I have considered all his reasons, and I realise this is a subjective matter. After careful consideration, and noting the circumstances which CIFO has previously considered as "severe", I do not consider an award within our 'Severe' category applicable in the circumstances of this case.

However, as a result of my review, I conclude that a further £500 D&I award is warranted in this case to reflect the various administrative errors by HSBC that Mr L has highlighted as part of his complaint. Mr L also referred to the significant time he has spent dealing with HSBC and out-of-pocket expenses for multiple phone calls. I do not award compensation for time spent on a complaint and, in the absence of specific evidence of actual call costs, I cannot reasonably award additional compensation for the out-of-pocket expenses he says he incurred.

However, I believe the overall compensation awarded, including the additional amount I have added above to reflect the administrative issues experienced, to be sufficient in the broad circumstances of this case.

Final Decision

My final decision is that I uphold Mr L's complaint and I award him £2,500 in total compensation.

Douglas Melville
Principal Ombudsman and Chief Executive

Date: 13 February 2025