

The complaint

M, a limited company, complains HSBC UK Bank Plc hasn't added its new director, Mr K, to the company's business bank account after he acquired control of the limited company. M complains HSBC also won't action its request to close the account and transfer the funds to its new account with another bank.

What happened

Mr K acquired control of M in July 2022 and he became its sole director. M completed a 'Mandate for Limited Company' form and sent it to HSBC in December 2022, requesting Mr K to become the sole signatory on M's business bank account. HSBC received the form but couldn't act on M's instructions because the form was completed incorrectly.

M completed a second form and sent it to HSBC later the same month. At the start of January 2023, whilst still waiting for HSBC to action the request to add Mr K to M's account, M complained about the length of time the bank was taking. M also asked HSBC to close its account and transfer the balance to a new account (in M's name) at another bank. M complains HSBC hasn't acted on any of its requests.

HSBC reviewed M's complaint but did not find it had acted inappropriately. M, unhappy at HSBC's response, then referred the matter to this service. The Investigator explained that as Mr K did not have the required customer relationship with the bank, it wasn't a matter the Financial Ombudsman Service can look into. M disagreed. As no agreement could be reached, the complaint has been referred to me to decide.

In my provisional decision I explained that:

"I've only included a summary of events above, but I'd like to reassure the parties that I've looked at all the available evidence and submissions.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

Before doing so, I must be satisfied the Financial Ombudsman Service can look into the matters complained about. The Investigator noted Mr K did not have a customer relationship with HSBC. Whilst that may be the case, Mr K is acting as a director of M in bringing this complaint and the company is a customer of HSBC – so, I am satisfied this is a matter I can consider.

Having done so, I consider that HSBC dealt with Mr K's requests appropriately. I'm sorry to have to disappoint Mr K, but I can see no basis on which I can fairly compel HSBC to add him to M's account or act on his instruction to close it and transfer the balance. I will explain why.

HSBC has extensive legal and regulatory responsibilities it must meet when providing

account services to customers. To fulfil these obligations, the bank may need to review activity taking place on accounts and ask customers for further information. HSBC is entitled and obliged to carry out such checks. The terms of M's account also permit HSBC to review its account and ask its directors/mandated persons for information.

Having looked at all the evidence, I don't believe it was unreasonable in the circumstances for HSBC to make further enquires before acting on M's request – significant sums are involved and so I can understand why the bank wanted to investigate the situation further. I'm satisfied that in doing so HSBC was complying with its legal and regulatory obligations. What HSBC did is in line with what most banks would do in the same situation.

I can appreciate that this may cause M some inconvenience. But I can't say that HSBC has done anything wrong or acted unreasonably in the circumstances. This means I am unable to award M any compensation for not being able to access its account since I don't find the bank acted inappropriately in taking the actions it did."

Responses

I asked the parties to the complaint to let me have any further representations that they wished me to consider by 3 July 2023.

HSBC acknowledged my provisional findings and it didn't have anything further to add.

M replied and disagreed with my provisional decision. In summary, it said that this complaint is brought by M and not Mr K; and that HSBC had failed to act on M's instructions agreed by its board, contrary to its legal and regulatory obligations. M wants to know why HSBC is yet to update the signatory mandate on its account and what steps it can take to assist bringing this about – it provided an email from HSBC confirming the request was still progressing. Its complaint is also that the funds held in the account belong to M and no individual shareholder, so the money should be returned to M.

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.

I've only included a short summary of M's response above, but I'd like to reassure M that I've considered its detailed response very carefully. Having done so, I'm not persuaded to reach a different outcome to my provisional decision. I'll explain why.

M has gone into much detail in separating the legal entity of the limited company from that of its director, Mr K. As I explained in my provisional decision, M is a customer of HSBC and so I am satisfied it is eligible to bring this complaint. I have considered M's wider points but as M has just the one director with significant control over the company, Mr K, I don't find its submissions material to the overall outcome of this complaint. And whether I have referred to M or its sole director in my provisional decision is equally immaterial.

M suggests I failed to consider its point that M is the owner of the funds held in the account. I've been asked to determine whether HSBC has acted appropriately in handling M's request to add a new signatory to the account, to close the account and transfer the balance – which are the matters dealt with by my provisional decision. And I need not consider M's entitlement to the funds to reach an outcome on these matters.

I've reviewed everything again. Neither M nor HSBC have provided *new* information for me to consider. So, I've not seen enough for me to alter my provisional conclusions. That is, I

don't believe it was unreasonable in the circumstances for HSBC to make further enquires before acting on M's requests. I'm satisfied that in doing so HSBC is complying with its legal and regulatory obligations.

My final decision

For the reasons given above, I do not uphold M's complaint or make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 4 August 2023.

Stefan Riedel
Ombudsman