

The complaint

Mr R and the estate of Mr R complain that HSBC UK Bank Plc poorly conducted a safeguarding review and closed his account using unreasonable grounds.

What happened

Mr R's father passed away in 2010 without a will and Mr R was appointed as the representative of the estate. In February 2013, Mr R opened a community account with HSBC in order to disperse future income accrued by his late father to the beneficiaries of the estate.

In 2021 Mr R was contacted by HSBC as they were conducting routine safeguarding reviews on business accounts, which the community account fell under. Despite conversations with HSBC, Mr R was unsure what information they required to complete their safeguarding review and was sent multiple letters in which HSBC said he had not provided what they needed.

Eventually, HSBC said that as the administration of the estate had been completed more than eight years prior, they could no longer justify Mr R having a community account which was intended for administrators/executors/trustees. Because of this, they issued a notice of closure in September 2021, access to the account was withdrawn in December 2021, and it was closed in January 2022. HSBC explained that a Will Trust account would be a more suitable account but did offer Mr R £100 compensation for the poor customer service he received during the safeguarding review.

Mr R referred the complaint to our service as he felt the community account had been closed in retaliation for him expressing his dissatisfaction with the safeguarding review. In addition, the closing funds in the account of £111.90 had been sent in a cheque with the incorrect name, meaning he could not cash it.

Our Investigator looked into the complaint and felt that Mr R had not been given a fair notice of closure as they felt the community account had not been the most suitable account for Mr R's needs in 2013. So, he therefore could not have provided the information needed during the safeguarding review. In light of this, they recommended compensation of £350 for the distress and inconvenience caused, as well as 8% interest on the £111.90 from 6 January 2022 when Mr R should have had access to the funds.

HSBC agreed to the recommendations however Mr R remained unhappy. In summary, Mr R felt the account had been closed due to unfair bias and felt we should direct HSBC to re-open it. He felt the closure notice and decision was unfair as he was unable to provide the information they requested. Mr R highlighted that he has not been able to receive royalty payments into the account since it was closed and that the compensation amount should be higher.

As an informal agreement could not be reached, the complaint has been passed to me for a final decision.

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, I think the recommendation of £350 compensation as well as 8% simple interest on the closing balance is fair in the circumstances. And I don't instruct HSBC to re-open the community account. I'll explain why in more detail. For simplicity, I'll refer only to Mr R in this decision.

Mr R opened the account in 2013; on the application form completed by HSBC it stated the principle activity of the business was 'trustee to the late Mr R's estate'. Mr R has said that the purpose of the account was for the ongoing administration of the estate as he had to continue to distribute royalties from the account.

HSBC has since said that while it was appropriate to provide community accounts to executors, trustees and administrators, these were intended to be for short term use while the affairs of the estate were being sorted. It therefore appears that the community account was not suitable for Mr R's needs, as he required an account for ongoing use to distribute royalties following the estate's affairs being finalised.

As a result, I think Mr R should have been given a more suitable account in 2013 that could have been used on a long-term basis. Mr R has said the Will Trust account that HSBC has suggested as an alternative would not be suitable as it would cost him in legal fees to set up and maintain. While I do think the community account wasn't the most suitable account for Mr R, I also have to consider that it was a free account. So, while I recognise it's closure in 2022 has been an inconvenience, on balance I don't think that prior to that point Mr R has been disadvantaged as a result of having the community account. As it allowed him to distribute funds to the beneficiaries of the estate at no additional cost. And it should be noted that HSBC are not obliged as a business to provide these kind of banking services for free.

I think that the safeguarding review was a largely automated process that was not fit for purpose for Mr R's specific circumstances. This has led to confusion on HSBC's part as to what they needed from Mr R and generic letters being sent to Mr R that did not suit his situation. It's therefore clear that this was a frustrating and stressful situation for Mr R who was trying to be proactive.

As a result of the poor safeguarding review, Mr R was sent closure notices which also asked for information he could not provide. And I recognise that, as a result, he thinks these were not valid notices of closure. I agree that the closure notices did ask Mr R to provide information that had not been specified and I think this is related to the automated nature of the safeguarding review.

My role is to put Mr R back in the position he would have been in had an error not been made. In this circumstance, had HSBC correctly set out the notice of closure, they likely would have explained that they did not feel the type of account was suitable for Mr R's needs and therefore intended to close it, but would give two months' notice, as per the terms and conditions of the account. Because of this, I think Mr R is in the same position he would have been in had the notice of closure been set out correctly, and I don't direct HSBC to re-open the account.

Having carefully considered all of the information available to me, I think the recommendation of £350 compensation in recognition of the distress and inconvenience the safeguarding review has had on Mr R is in line with what I would have recommended. While I do think the safeguarding review process has caused Mr R upset, I still think it was reasonable for HSBC to make the decision to close the account in question so I do not agree it should re-open it. I recognise that Mr R has not had access to the closing balance as HSBC issued it to the title of the account, instead of Mr R's name. And I agree that HSBC should pay Mr R the closing balance, as well as 8% simple interest from 6 January 2022 to the date of payment.

Mr R has also requested that HSBC include the royalty payments that have not been credited to the account since it was closed. I've thought about this, and I don't agree HSBC should include these in the redress. I say this because I think HSBC gave notice that it would close the account, so Mr R had over two months to find an alternative way to receive the royalties.

Putting things right

HSBC UK Bank Plc should pay Mr R £350 compensation for distress and inconvenience caused. And they should pay him the closing balance of £1111.90 plus 8% simple interest from 6 January 2022 to the date of payment.

My final decision

I uphold Mr R's complaint in part and direct HSBC UK Bank Plc to pay the redress as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R and the estate of Mr R to accept or reject my decision before 9 August 2023.

Rebecca Norris
Ombudsman