

The complaint

Mr F complains that when HSBC UK Bank Plc sold his holding of shares (I'll refer to these as his B shares) it didn't have his consent or any other authority to do so. He says HSBC didn't comply with any terms and conditions and as a result of its actions, the overall cost to him when he reinstated his holding of B shares was more than £11,600, which he wants HSBC to reimburse.

What happened

Mr F had a holding of B shares he'd acquired during the 1980/1990's in a corporate ISA account administered by HSBC. The B shares were of particular importance and significance to Mr F. They also represented his largest single investment and he planned to rely on these for income in retirement.

In July 2022, HSBC wrote to Mr F informing him that it would be closing this account and he had until 29 September 2022 to provide instructions in relation to his B shares. HSBC listed the options that were available to him, as follows:

1. *If you don't provide us with an instruction by 2pm on 29 September 2022, we'll take this as your consent to sell your shares and open an HSBC UK Bank plc Loyalty Cash ISA for you. We'll transfer the cash balance to the new ISA on 17 October 2022 which will ensure that you don't lose the tax efficient ISA status. We've enclosed an HSBC Loyalty Cash ISA Summary Box. More information, including Terms and Conditions, can be found at: [hsbc.co.uk/savings/products/cash-isa/](https://www.hsbc.co.uk/savings/products/cash-isa/)*
2. *Apply for an HSBC InvestDirect Stocks and Shares ISA account and transfer your holdings.*
3. *Transfer your shares to another ISA provider of your choice. To do this you'll need to complete a transfer application with your new ISA Manager.*
4. *Instruct us to close the ISA and withdraw your money.*

HSBC sent a reminder letter the following month, reiterating the above options and a further follow up letter repeating this information in September 2022.

When no response was received from Mr F, HSBC sold his shares in line with option 1 above.

Mr F however hadn't seen any of HSBC's letters about this until he returned home after this had all happened so he'd missed the chance to transfer his B shares before they were sold.

When he complained to HSBC about the cost of having to buy back his B shares and the fact HSBC hadn't emailed him or followed up his lack of response, despite knowing his work took him away from home for periods, HSBC didn't agree it had done anything wrong. In summary it said HSBC had acted within its terms and conditions and given Mr F sufficient

notice of the changes and options available ahead of the sale. It said that the fairest way to ensure all customers were made aware of these changes was by post.

Mr F remained unhappy with the response, so referred his complaint to this service for an independent review. One of our investigators considered the complaint. In brief summary, he didn't agree that HSBC had been responsible for any wrong-doing or consider that HSBC was liable for the cost Mr F incurred buying back his B shareholding.

Mr F didn't accept the investigators findings and asked for an ombudsman to reach a final decision on his complaint. He mainly says (in brief summary):

- the investigator didn't carry out a sufficiently thorough or even-handed investigation.
- He should have considered HSBC's general handling of the share scheme and *'how they shut it down, did not follow procedure, had no terms and conditions to do so and subsequent communications to me regarding my complaint'* as well as properly taking into account the specific impact on Mr F, which wasn't known when he first raised his complaint.
- Mr F had previously complained to HSBC regarding this account in 2021 and given HSBC clear notification that it should communicate with him by email because he was frequently abroad – which HSBC had ignored when sending him letters about this matter by ordinary post.
- HSBC failed to provide Mr F with details of the Cash ISA so he'd had to make contact himself to find out this information so he could initiate a transfer. He finally found out the details of the account on 8 November and this isn't covered in the investigator's view.
- The investigator hadn't taken into account HSBC's overall handling of the case after it admitted to Mr F during a telephone call it had been *'inundated with complaints'* and this should have been investigated further.
- No mention was made as to why HSBC could not move the corporate ISA into an ordinary share ISA pending contact from the corporate ISA holder to confirm any further details required and the investigator hadn't asked for relevant information that HSBC had refused to disclose to Mr F.
- The account was transferred to HSBC from the previous administrators and Mr F had never seen or agreed to any terms and conditions. These did not in any event say HSBC would send letters by post to inform of the closure of the scheme and in 2022, he said communication electronically by email is usual.
- There are no terms and conditions relating to closure of the scheme.
- Mr F received the funds on 6 February 2023 and reinstated his B shareholding at an overall cost of more than £11,600.
- Mr F was not issued with a final letter in response to his complaint.
- HSBC held Mr F's email address and mobile telephone number on file and it would have been reasonable under the circumstances for HSBC to make use of this information.

- HSBC should have been asked when the decision was made to close the scheme, especially as it had previously said in 2021 that no further investments could be made into the scheme.

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 carried out an independent review and having done so, I've reached the same conclusion as our investigator and I'm not going to uphold this complaint. I'll explain my approach and how I've reached my decision.

I appreciate how strongly Mr F feels about this complaint. He's provided detailed submissions to support his view and whilst I've summarised some of his main concerns in my own words, I've carefully read and considered everything he's said. We provide an informal complaints handling service and this is reflected in the way I've approached the complaint. It's part of my role to identify and concentrate on the core issues I need to address in order to reach a fair outcome. My role is to consider the evidence presented by both parties and reach a fair and reasonable overall decision based on the facts of the case.

In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice.

In simple terms, to uphold this complaint there would have to be persuasive evidence that made it more likely than not that HSBC had done something wrong or acted unfairly or unreasonably in some way that caused Mr F financial loss or other detriment. So I have approached the complaint with this in mind.

Thinking first about HSBC's Corporate ISA Terms and Conditions, Mr F would've had to agree to these when HSBC took over from the previous administrators in order to be able to continue holding his B shares and appoint HSBC as the account manager – which is the arrangement he had in place.

The relevant part of the terms and conditions that applies here provides as follows:

'15.5 We may also end our agreement with you and close your Account for any other valid reason by giving you at least 30 days' advance notice in writing.'

I think the material terms relating to Mr F's complaint are clear, fair, and not misleading. HSBC confirmed the reason for closing the corporate ISA account was due to HSBC discontinuing the product scheme and it wrote to Mr F at his registered address giving him 60 days' notice. I appreciate that Mr F prefers a different interpretation, in particular, he feels the terms don't cover the closure of the scheme and says there was no valid closure reason given by HSBC. But I can't fairly say, based on the information I've seen, that HSBC did anything wrong in breach of its terms and conditions when it closed the account.

I agree that, even if HSBC acted in line with its terms and conditions, it doesn't automatically mean it treated Mr F in a way that was fair and reasonable, and I've thought carefully about this.

Central to Mr F's complaint is the way HSBC communicated with him. He feels it was unreasonable for HSBC to rely on sending him important information in the post because his view is that this is now an outmoded way of communicating and, as I understand it, he felt he had previously made it clear to HSBC that it should communicate with him by email. He says

this was particularly the case concerning communications about his B shares since HSBC already knew that this account was important to him, following the complaint he had raised about it in 2021, when he'd made clear the necessity of using email to reach him.

I've carefully listened to the call recording Mr F refers to and seen the email exchange he relies on when he says HSBC had clear instructions to communicate only by email.

During the call with the complaint handler at HSBC in August 2021, Mr F was asked if he preferred his response to be sent to him by post or by email, and he said: *'I would probably like an email'*. Mr F provided his email address and HSBC followed up with an email. But I think HSBC reasonably understood that Mr F's stated email preference was specifically in relation to the complaint being dealt with at the time. I don't find that Mr F gave any clear notification of a general standing instruction that he wanted all future communication by email as he was frequently away from his home travelling abroad.

And Mr F's email sent 5 October 2021 says: *'Note that I will be away from my home address until the new year and I'd therefore appreciate communication through email.'* This further suggests to me that his requests for communication by email were specific to those times he expected to be away from home.

So I don't think HSBC ought fairly or reasonably to have known that its letters about the scheme closure sent in July, August and September 2022, wouldn't be seen by Mr F in time for him to be able to act on any of the available options. It explained that its view was that post was the most reliable way of sending mailings out to all affected customers, given that not everyone had access to emails.

That seems reasonable to me – also bearing in mind that in the terms and conditions it says *'Communications'* refers to post or telephone.

I'm also mindful that HSBC provided twice as much notice as it was required to give. I can't fairly say, based on everything I've seen and heard, that HSBC had any good reason to think that Mr F wouldn't have received its communications about this in time to provide his instructions. And the letters HSBC sent him set out clearly what would happen if no instructions were provided – and HSBC did as it said it would, in the absence of any communication from Mr F.

To sum up, I find that :

- there was no particular reason why HSBC would've known that Mr F was unlikely to receive post sent to his home address during July – September 2022, and
- I don't think HSBC would've had any particular reason to think it unusual that Mr F hadn't responded to the closure notice when that scenario was effectively covered in its letter and one of the options he could choose, or
- that HSBC should reasonably have been prompted to email Mr F, simply by virtue of the fact he'd made a complaint about its handling of the account the previous year and asked for a response on that matter to be sent to him by email.
- HSBC fairly and reasonably sent notification of the planned closure in line with the account terms and conditions by post to Mr F's address – where it was delivered.
- HSBC is not responsible for the fact that Mr F wasn't living at his home address at the time and he had no arrangements in place to enable him to monitor or respond to

post.

- HSBC didn't make any error or treat Mr F in a way that wasn't fair or reasonable when it sold Mr F's B shares after giving him due notice that it would do this if he didn't provide alternative instructions by the deadline date – as Mr F didn't do this.
- I appreciate that Mr F thinks the sale proceeds should have been treated differently, but I don't consider that transferring the cash balance following the sale of his B shares to an HSBC UK Bank plc Loyalty Cash ISA it set up for him was unfair or unreasonable.

I appreciate that if he'd known about the planned closure ahead of time, then Mr F would have taken steps to move his existing shares and retain them and he feels the two month period for closure of the scheme was in any event insufficient. But I haven't seen enough to persuade me that I can fairly hold HSBC responsible for the cost of buying back his shares.

After taking into account everything that Mr F and HSBC have told me, I haven't seen enough to show that HSBC did anything wrong or that it treated Mr F in a way that wasn't fair and reasonable. So I can't uphold this complaint.

The purpose of my decision isn't to address every single point raised and so I have concentrated on what I consider to be the main points that affect the outcome of this complaint. But looking at the other points Mr F mentioned in response to the investigator's view, I can see these are of concern to him and so I would say as follows:

- HSBC's records show it sent a '*New Cash ISA letter*' to Mr F on 11 November 2022. Although Mr F wanted information more quickly and he felt the need to chase up this himself, I don't think that was an unreasonable timescale. He'd already received the three letters HSBC sent telling him what would happen to his money and information about the new ISA. And HSBC provided the requested information over the phone straightaway when he called. So I don't find this is enough of a reason for me to uphold this complaint.
- HSBC told Mr F that the demise of the platform had resulted in a number of complaints, but our role is to investigate individual complaints so we've looked into the particulars of Mr F's complaint. How businesses choose to operate and the services they offer are matters that come under the oversight of the regulator - the Financial Conduct Authority (FCA).
- Whilst Mr F wanted to know why HSBC could not move the corporate ISA into an ordinary share ISA pending contact from the corporate ISA holder to confirm any further details required, I have found that the options HSBC offered were fair and reasonable, so this isn't something I consider this service needs to follow up further.
- I appreciate that Mr F was still involved in buying back his shares when the investigator started looking into his complaint, but this wasn't a reason to hold up an investigation and it didn't stop the investigator considering the merits of this complaint. The question of loss and redress is a separate issue and it doesn't arise if we don't first identify fair and reasonable grounds to uphold a complaint
- Mr F raised some additional complaints during the course of this matter, including the time it took for HSBC to process the transfer of his funds to his new provider. We can only look into the scope of his original complaint – it wouldn't be fair to make findings on a matter that HSBC hasn't first had an opportunity to address and put right if need

be. But in case it assists Mr F to know, I can confirm that HSBC's records show that funds were transferred from HSBC on 25 January 2023.

- HSBC sent Mr F its final response letter by email on 5 December 2022. All the regulatory requirements HSBC had to meet, including referral rights to us were clearly set out. The fact that Mr F chose to engage in further correspondence after receiving this letter doesn't mean he didn't receive a final response from HSBC. This was confirmed by HSBC when it wrote to him further on 11 January 2023, addressing some of the points he'd raised, and confirming that its email sent on 5 December 2022 was its final response.
- Mr F would particularly like to know when HSBC decided to close the scheme but this isn't material as it doesn't affect the outcome of his complaint when I have found, for all the reasons I have set out above, that HSBC didn't make any error or treat Mr F unfairly or unreasonably when it closed his account.

I hope that setting things out as I've done helps explain how I've reached my conclusions and even though this isn't the outcome Mr F hoped for, he will at least feel that his complaint has been fully considered by the Financial Ombudsman Service.

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 Mr F to accept or reject my decision before 21 December 2023.

Susan Webb
Ombudsman