

The complaint

Mr T, represented by Mr T2, complains that HSBC UK Bank Plc didn't provide the service it should have when he needed to set up a standing order.

What happened

Mr T sent a standing order instruction to HSBC, but HSBC didn't set this up and instead wrote to Mr T at the address it had on file to say he would need to attend a branch to set up the payment. It also returned the original letter to him. Mr T says that visiting a branch wasn't reasonable given his mobility issues and that this shouldn't have been requested. He also found it insulting that his original letter was returned.

Mr T2 says he made several calls to HSBC. He says the adviser initially didn't appear to know what to do which he said showed a lack of commitment to the Equality Act 2010. He says the adviser's telephone manner became aggressive and the call dropped, and no call back was made. Mr T2 says he mentioned having a power of attorney but made it clear that this wouldn't be provided to HSBC due to a lack of trust. He says that HSBC then went on to search the Office of the Public Guardian without his consent.

Mr T2 says the calls with the specialist team were difficult with a member of staff refusing to make a payment due to verification issues and rejecting the use of an interpreter as a reasonable adjustment for a customer with hearing loss. Mr T2 says that another member of staff then assisted and made the payment.

HSBC said that at the time Mr T2 contacted it about setting up a payment from Mr T's account, it had no record of Mr T2 having authority in regard to Mr T's account. It checked with the Office of the Public Guardian and found that Mr T had a Lasting Power of Attorney (LPoA) in place with Mr T2 as the attorney. It said the information it received was insufficient for it to register the LPoA on Mr T's account and provided details to Mr T2 of how this could be done.

HSBC said that its Specialist Banking Team had assisted Mr T by contacting the care home it was told he was residing in and enabling certain payments to be made from Mr T's account. It didn't accept that it had treated Mr T unfairly.

Our investigator didn't uphold this complaint. He didn't think that HSBC had done anything wrong or treated Mr T unfairly when asked to set up a standing order from his account. He noted the initial signature on the instruction didn't match the mandate and so security needed to be completed. Unfortunately, the questions weren't answered correctly. He noted that HSBC's specialist team then assisted in getting the payment set up.

Mr T2 didn't accept our investigator's view. He reiterated his concerns about how the calls were handled and said a call back with the specialist unit wasn't arranged because it hadn't been requested by Mr T which was discriminatory. He said that on the call with the specialist team the adviser reneged on the agreement of a three-way conversation as a reasonable adjustment and had a poor attitude expecting him to wait excessive amounts of time.

Mr T2 said the LPoA in place relates to Health and Social care not financial arrangements and would only be registered if Mr T lost mental capacity, which isn't the situation. Mr T2 says he wasn't trying to use the LPoA to make the payment and even if he had the bank would have needed his identification before acting on this. Therefore, Mr T2 says this isn't relevant to the issues raised. He says his role was to act as an interpreter as a reasonable adjustment to overcome Mr T's disability of hearing loss. He said so long as the bank could hear Mr T's responses directly there should be no need for Mr T2 to provide identification for his role as interpreter. He said the actions HSBC took were less safe than using him as an interpreter and noted that since this issue HSBC has attempted security using Mr T2 as an interpreter. He said HSBC was inconsistent in its approach.

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.

Mr T2 says that HSBC's actions were discriminatory against Mr T. While we take any allegation of discrimination seriously, I should first explain that we are an informal dispute resolution service, meaning we don't have the power to decide whether or not HSBC is in breach of the Equality Act 2010, as only a court has the power to do this. What we can do is take relevant law and regulation into account when deciding what's fair and reasonable in the circumstances of a complaint.

Mr T2 has raised several issues about the service received when trying to set up a standing order from Mr T's account. While I may not comment on every point raised, I want to reassure Mr T and Mr T2 that I have listened to the calls provided and taken all of the evidence into account when reaching my decision. I also want to explain that while I note the process was frustrating for Mr T2, as he isn't the complainant, I wouldn't be able to award anything for any distress and inconvenience he was caused.

Mr T sent a letter to HSBC to set up a standing order. Mr T then received a letter saying that due to the information HSBC held it wasn't able to proceed with the request and Mr T should visit a branch with his identification for this issue to be resolved. Mr T's original letter was also returned. I appreciate that this was frustrating for Mr T and given his mobility issues visiting a branch wasn't a reasonable request. But, at the time of the standing order request, HSBC didn't have any record of Mr T's disabilities or any indication that Mr T was living in a care home. Therefore, when there was an issue setting up the instruction, I do not find that it did anything wrong by writing to Mr T at the address it had on file about this and to explain how this could be resolved.

I note Mr T2's comment that regular non urgent correspondence should come to the address on file but as the instruction needed urgent attention due to the timing of the payment it would have been better to have called. I think this is a reasonable comment that should be taken on board by HSBC. I also think that HSBC could have provided further details about why the standing order hadn't been able to be set up. I note Mr T2's comment that the return of the original letter was insulting to Mr T. It isn't clear why this was returned, but I don't think this was intended to cause any upset rather that the correspondence was returned as it couldn't be acted on. So, on balance, when considering the initial response to the original mandate sent to HSBC, and based on the information available to it at that time, I do not find that HSBC did anything wrong.

Mr T2 made several calls to HSBC. I have listened to the calls provided from 5 to 8 August 2022. On the call on 5 August Mr T2 says he has a LPoA but that HSBC hasn't seen this. The adviser asks for details and Mr T2 doesn't provide these. So, while I note the comments about the silences, I do not find that Mr T2 provided the details the adviser needed in order

to be able to assist him. On a call on 6 August Mr T2 asks for confirmation that a call back will happen if the call drops. This was important to him as there did appear to be issue with the telephone system at the time. Mr T2 sounded frustrated at the time, and I appreciate he didn't want to provide details until he had certain issues confirmed. But because he didn't provide any details the adviser explained that they couldn't book in a call back. A further call then took place where it was confirmed that Mr T could be verified by the specialist banking team through a three-way conversation. While I understand Mr T2 feels the calls showed that HSBC was discriminatory against disabled people, having listened to these initial calls, I think the advisers were trying to assist and as Mr T2 didn't provide any details in regard to Mr T or the issues he had, it was limited in the help it could provide. That said, a way forward was confirmed regarding the need to verify Mr T.

A call took place with the specialist banking team. This was a difficult call as Mr T2 was aggressive in his approach and while the adviser did try to assist, he could have done more to show he was taking Mr T2's comments about discrimination more seriously. Mr T was present with Mr T2 on the call and the adviser tried to take him through the security questions. I note the comments about this but I find that the adviser was trying to assist while still ensuring the procedure was being carried out correctly. Based on the call, Mr T appeared to answer most of the questions without issue, but he didn't pass security (possibly due to his final answer about the account movements). At this point I think the adviser could have looked to see if there were other questions that would be more suitable to ask, noting Mr T's situation, to see if the verification could happen. That said, as security wasn't passed, I cannot say he was wrong not to continue with the transaction.

On the call on 8 August, the adviser apologised for the service Mr T2 had received and Mr T2 was then comfortable providing details. This was a positive call on which the adviser explained how he could move forward with setting up the standing order and provide a solution to ensure the initial payment was made on time. I note Mr T2's comments about the approach taken to make the payment but this was a positive outcome for Mr T, and I find the adviser worked with Mr T2 to find a solution for Mr T.

There has been discussion about the LPoA. I have considered the points made and appreciate that Mr T2 hadn't provided HSBC with this at the time and that the LPoA will come into force if Mr T loses mental capacity to deal with his affairs, which isn't the current situation. Therefore, this isn't a relevant consideration at this point. Mr T2 has been provided with the information about registering the LPoA with HSBC should he need to in due course. I note Mr T2's comment about the checks made with the Office of the Public Guardian and that he may make a separate complaint about this.

In conclusion, this decision is about the actions taken by HSBC when a standing order was trying to be set up on behalf of a vulnerable consumer, Mr T. Having considered the service provided by HSBC, once it was aware of Mr T's situation it informed Mr T2 of a service for deaf customers and explained how Mr T2 could be given authority on Mr T's account to assist with future transactions. Mr T2 made it clear he wanted to have the verification process undertaken through a three-way call and this was carried out. Unfortunately, Mr T didn't pass the security the first time this was attempted. On a follow up call a convenient time for the verification process to take place was arranged so the standing order could be set up and the adviser took extra steps to ensure the payment that was due before the standing order could be set up was made on time. Based on this I find that HSBC did make reasonable adjustments to assist Mr T and I do not find I can say it treated him unfairly.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 30 October 2023.

Jane Archer
Ombudsman