

The complaint

M, a limited company complains about the way that HSBC UK Bank Plc treated its director, Mr M.

What happened

In late March 2023, HSBC wrote to M to say that it was closing its client deposit account. HSBC said that it had tried to contact M several times without success to establish whether it was eligible to hold the account.

Once Mr M received the letter, he contacted HSBC. As Mr M was unhappy with the outcome of the call he went to a branch of HSBC. Mr M accepts he may have raised his voice due to the concern he felt about the closure of the account. But Mr M says he remained seated at all times and that the meeting concluded in a civil manner.

A couple of days later, HSBC sent M a letter addressed to the director, referring to an incident in branch. The letter warned that any verbal or physical abuse would not be tolerated and that if there was another similar instance in the future, HSBC may decide to close M's account.

Mr M was very unhappy with the contents of the warning letter and followed up with HSBC. He asked HSBC to withdraw the warning letter from his file.

HSBC didn't agree that it treated Mr M unfairly and our investigator didn't recommend that M's complaint be upheld. In summary, our investigator couldn't see why a particular religious event would have prevented Mr M from receiving a call back. Our investigator said it wasn't in dispute that Mr M raised his voice with staff in branch. Based on what Mr M said about the incident, our investigator didn't think HSBC acted unreasonably when sending the warning letter.

Mr M didn't accept the investigation outcome. Mr M explains why he thought it unlikely that he would receive a call at a particular time due to time differences. Mr M said he never speculated on a member of staff's religion.

Mr M admitted that he raised his voice but did not shout or scream at the individuals in branch. Mr M said a member of staff admitted that he didn't witness any abuse but was instructed to send the generic warning letter.

Mr M wanted details of the alleged verbal or physical abuse and said that both forms of abuse can only legally occur during a one on one encounter.

Mr M later confirmed to our investigator that his complaint is a personal complaint as he has been accused of verbal or physical abuse against a member or members of HSBC.

I issued a provisional decision on 20 October 2023 in which I said:

Although I may not comment on each and every point Mr M has raised, this doesn't mean I have not read and considered everything he's provided. Instead I have

focussed on what I consider to be the key points. This is not intended as a discourtesy – it simply reflects the informal nature of this service.

I appreciate that Mr M was very unhappy to receive HSBC's warning letter and that he would like to see more evidence of what HSBC is accusing him of. In cases like this, it's difficult to know exactly what was said in branch. Mr M admits to raising his voice but doesn't think his behaviour was in anyway abusive. I can understand why Mr M feels this way but just because one person might not feel they've been abusive or aggressive in some way, doesn't necessarily mean another person won't. Based on what I've seen, I don't consider HSBC acted unreasonably by sending M the warning letter.

Even if I was to agree that HSBC had treated Mr M unfairly, the eligible complainant here is M – so it is only M to whom I can make an award. M is a limited company and therefore its own legal entity. M can't feel distress or upset, so there would be no basis on which to award compensation to M for any upset that Mr M has felt personally. I should also say that I don't have evidence to suggest that HSBC has gone on to close M's accounts because of the alleged incident. The closure of M's deposit account was underway before the incident in branch. So, I don't think I need to find out more from HSBC about exactly what happened in branch to determine whether the incident itself fairly justified further action such as withdrawing M's banking facilities.

Mr M has made it very clear that his complaint is a personal one, so I have thought about whether he could bring a complaint in his own right as an individual.

The rules that we're governed by - known as the DISP rules – set out which complaints we can and can't consider. The rules are set by the regulator, the Financial Conduct Authority, and can be found in its handbook.

To be an eligible complainant, the complainant must meet the definition of one of the entities set out in DISP 2.7.3. For the purpose of considering whether Mr M can complain in his own right, the relevant entity would be a consumer.

A 'consumer' is defined within the DISP rules as "any natural person acting for purposes outside his trade, business or profession". This complaint is about an alleged failing by HSBC in the way it communicated with Mr M after it sent the notice to close M's account. So, the complaint stems from matters arising out of Mr M's trade, business, or profession as director of M. It follows that for the purposes of this complaint, Mr M is not a consumer, so would not be an eligible complainant. This also explains why I don't consider it necessary to find out more information about the incident before reaching my decision.

I'm sorry to disappoint Mr M but for the reasons outlined above, I don't uphold M's complaint. I also don't think Mr M is eligible to complain as an individual.

Further submissions

HSBC didn't respond to my provisional decision but Mr M on behalf of M replied to say that he didn't agree with my provisional findings.

In summary, Mr M said that no act of abuse ever took place in branch. Mr M said that a corporate entity cannot perform acts of abuse – only an individual can do that – which is why he was accused of the acts. Mr M said that as the only employee and shareholder of M, any

complaint directed against M is directed against him personally. Mr M asked for further clarification of what acts he'd been accused of by HSBC.

Mr M asked me to question HSBC further about the alleged incident and obtain answers to several questions.

Mr M pointed out that when HSBC wrote to him it addressed the letter to Secretary of M and "Dear Director". He said the first paragraph of the letter referred to an incident involving "you". Mr M says this all shows the accusations were directed against him personally and not 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 am grateful to Mr M for his responses to my provisional decision. I am sorry to disappoint him but my view of M's complaint remains the same. Mr M's responses reinforce my view that he considers his complaint to be a personal one. For the reasons I've already outlined in my provisional decision, Mr M is not an eligible complainant under the DISP rules. So, I can't consider a personal complaint made by Mr M about HSBC's treatment of him.

Although Mr M's view of the events in branch differs from that of HSBC, I still don't think it was unreasonable of HSBC to send M the letter that it did. Mr M admits that he raised his voice and as I've said in my provisional decision – one person's view of what constitutes aggressive behaviour may differ from another. I don't think it necessary for me to question HSBC in the way that Mr M would like – particularly as I can't see that M has suffered any loss because of HSBC's response to the alleged incident in branch.

I'm sorry to disappoint Mr M but for the reasons I've already outlined, my decision is that I don't uphold M's complaint and I don't consider Mr M is eligible to complain about the incident in his own right.

My final decision

My final decision is that I don't uphold M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 10 January 2024.

Gemma Bowen
Ombudsman