

## **The complaint**

Mr G complains that HSBC UK Bank Plc declined his application for a basic bank account.

## **What happened**

In 2023, Mr G applied for a bank account with HSBC. But HSBC says it cannot offer him a bank account because he failed its product scoring. It says it checked whether it could offer him a basic bank account – but says that he failed to meet its checks. It said he'd need to bank elsewhere.

Our investigator looked at this. He was satisfied HSBC could decline Mr G's application for a current account. But he wasn't satisfied HSBC could decline the application for the basic account. As such, he recommended that HSBC reconsider Mr G's application and provide him with one if he passed all the necessary checks – and recommended HSBC pay Mr G £100 to reflect the trouble and upset this caused.

HSBC doesn't agree. The complaint has been passed to me to decide.

Since then, Mr G has confirmed that he's now been able to open a bank account elsewhere. He no longer needs HSBC to provide an account. We've told HSBC we were no longer minded to ask it to reconsider Mr G's application – but asked if they'd pay him the £100. HSBC didn't agree. I've therefore reconsidered the complaint afresh.

## **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.

The Payment Account Regulations 2015 provide that everyone legally resident in the United Kingdom who meets certain eligibility criteria has the right to open and use a basic bank account. HSBC is one of the banks required to offer such accounts under these regulations, and I'm satisfied that Mr G met those eligibility criteria. And under the regulations, HSBC can then only refuse an application for such an account in certain circumstances – where either it would be unlawful to do so, or where the customer's behaviour towards HSBC's staff would amount to an offence under public order legislation.

Although the regulations give examples of when opening an account would be unlawful, such as where opening the account would be contrary to the Fraud Act 2006 or money laundering regulations, this list is not exhaustive.

That said, the regulations are intended to implement the European payment accounts directive. Recital 47 to that directive states that while credit institutions should refuse to open a payment account in specific circumstances, such as non-compliance with legislation on money laundering and terrorist financing or on the prevention and investigation of crimes, "a refusal can only be justified where the consumer does not comply with that legislation and not because the procedure to check compliance with the legislation is too burdensome or costly". Recital 34 likewise states that compliance with anti-money-laundering laws "should

not be used as a pretext for rejecting commercially less attractive consumers.”

Accordingly the main question for me to decide is whether HSBC correctly declined the application in line with the regulations. Given what I've said above, HSBC can only decline an application for a basic account where to have provided the account was unlawful. It cannot decline the application solely because it didn't want Mr G as a customer or because it would be burdensome to comply with its other legal and regulatory requirements.

HSBC has told us in confidence why it rejected Mr G's application. Alongside this, it explained why it considered that providing accounts in some circumstances would be unlawful. Under our rules I can receive information in confidence. I'm satisfied this information is sensitive and cannot be shared with Mr G.

I've carefully considered the points HSBC has raised. I accept that HSBC was entitled to reject Mr G's application for a standard bank account. I accept that HSBC doesn't need to open an account with basic features where it would be unlawful for it to do so. I also accept that HSBC needs to put systems and controls in place to manage and mitigate the risk that customers might carry out financial crime.

Equally, though, I bear in mind that the 2015 regulations were intended to give everyone the right to a payment account with basic features. Access to a payment account is seen as an essential part of everyday life: not having access to a payment account makes everyday life difficult and more expensive. I think the onus is on HSBC to show that declining the application was the only way it could otherwise comply with its obligations.

With this in mind:

I note that Mr G has subsequently been able to open a new account with another business. This means I no longer need to consider whether HSBC now needs to reconsider whether to open a basic account for Mr G.

But I'm not satisfied HSBC has shown that its decision to decline the application was a fair one. While I note what HSBC has said about its wider legal and regulatory obligations, I'm not persuaded based on HSBC's submissions that it was *unlawful* to accept Mr G's application for a basic account. I note in particular that the information HSBC has relied on relates to something that happened a number of years before Mr G applied to open this account. While HSBC says that its concerns are “beyond suspicion” and “beyond reasonable doubt”, the concerns were in fact contested and ultimately withdrawn by the bank that recorded it.

### **Putting things right**

Mr G has already opened an account with another bank. So I don't need to tell HSBC to reconsider the application. But I accept that having his application for an account would have caused inconvenience. Given everything Mr G has said about this, I award £100 for the trouble and upset this all caused.

### **My final decision**

I uphold the complaint. HSBC UK Bank Plc should pay Mr G £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 27 September 2024.

Rebecca Hardman  
**Ombudsman**