

The complaint

Miss B complains about an HSBC UK Bank Plc data breach when dispatching her debit card.

What happened

I issued my provisional decision on this complaint on 6 December 2022. This is what I said:

What happened

In the past, Miss B had held a joint HSBC account with her ex-partner. This joint account was closed some time ago and Miss B believed there was no associated record. For safety reasons it was very important that there was no association with her ex-partner.

Miss B continued to have accounts with HSBC but in her name only. When her credit and debit cards expired in January 2021, Miss B didn't receive replacement cards. Miss B was living in another country and she asked for the cards to be sent to her new address. HSBC said they didn't send cards abroad so Miss B arranged for them to be sent to her parents so they could send them on.

However, an unexplained error occurred in March 2021, which HSBC have attributed to a combination of system and human error. The error was on the letter containing the debit card which displayed Miss B's ex-partners name, alongside her name.

This was very traumatic for both Miss B and her parents. Miss B thought there had been a data breach and, because of an abusive ex-partner and distressing events in the past, she immediately became worried about her safety and finances. Miss B, who had been diagnosed and treated for major depressive disorder and post-traumatic stress disorder, says this made her extremely anxious and unwell. Miss B says she needed medical intervention to help her cope with the distress of the situation and this caused her to be hospitalised. Miss B says it also affected her income as she was unable to work.

Miss B says she contacted HSBC and received an apology but not a satisfactory explanation. She also says there were other concerns as HSBC made errors with her correspondence and on-line banking and were inundating her with messages and calls about arrears on her credit card. Miss B says HSBC only seemed concerned about her arrears and that she felt too unwell to deal with the situation and needed to focus on her health and treatment.

In July 2021, she complained to HSBC about what she believed to be a data breach. HSBC confirmed that they hadn't sent any information to her ex-partner and offered £30 compensation. HSBC understood the complaint to have been resolved.

However, Miss B was dissatisfied due to the error being unexplained and the serious impact on her health. She felt HSBC were treating it as a minor error and complained to our service.

Whilst recognising the stress and frustration caused, our investigator thought HSBC's

response was fair and reasonable in the circumstances. He also explained that it's not the role of our service to determine whether there has been a breach of the relevant privacy laws and gave Miss B details of the Information Commissioner's Office (ICO).

Miss B remains dissatisfied as she believes the stress, anxiety, health issues and costs, such as security, haven't been addressed. Also, the level of compensation is out of kilter with other similar cases.

What I've provisionally 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 have come to a different view to the investigator and I intend to uphold this complaint for the following reasons.

As HSBC accept they made an error, what's left for me to decide is what is fair and reasonable to put this right. Having done so, I have come to the view that the compensation award should be increased to £500.

Whilst there hasn't been a financial loss here and HSBC say data wasn't shared, there is no dispute that an error was made which had a serious impact on Miss B. As HSBC used a previously associated name and are confident that this was an isolated incident with no financial or personal data shared, I can see why they might think the impact on Miss B is low. But in the individual circumstances of this complaint, I'm satisfied that the impact of this error is significant.

I have considered evidence submitted by Miss B on her health and I'm satisfied that she has characteristics of vulnerability according to the Financial Conduct Authority's guidance on this topic. From Miss B's submissions I'm also persuaded that the error would have given her a shock, caused her alarm and impacted her condition and health. It's a small mistake by HSBC, but one that had a serious impact on Miss B.

Also, I can't see that HSBC understood Miss B's vulnerability or made efforts to understand the impact of their error in order to put in place the timely support she needed. To date, Miss B has never been given any real detail around the reason this happened and so she remains stressed and anxious and this impacts upon her health condition.

HSBC has said that this likely happened because of a combination of system and human error. I appreciate that this isn't enough detail as Miss B would like, but HSBC says that this is as much detail as it can provide and sometimes businesses can't explain why a mistake occurred. So, in these circumstances I don't think it'd be fair of me to compel HSBC to provide further information that it doesn't actually have. But I do think that any award here should take account of the impact of this uncertainty and lack of an answer on Miss B.

Miss B also raised a complaint about another product she held with HSBC around the same time. That is being dealt with separately by this service, but although HSBC's staff tried to be helpful, there was a lack of understanding, support and sensitivity to a vulnerable customer who was put in a difficult position as a result of HSBC's error.

So, having considered all the information from both sides here, I think £500 is an amount which more fairly reflects the impact this had and continues to have on Miss B here.

My provisional decision

For the reasons I've given above, it's my provisional decision to uphold this complaint and

tell HSBC UK Bank Plc to pay Miss B £500.

I'll look at anything else anyone wants to give me – so long as I get it before xx 2022. Unless that information changes my mind, my final decision is likely to be as I've set out above.

I invited both parties to let me have any further comments or evidence before the deadline.

HSBC accepted the above provisional decision.

Miss B didn't accept the above provisional decision. She feels the compensation amount is inadequate and said it doesn't *"reflect their mistake and the significant impact it has had on my health, employment, reputation and personal security."* Miss B added that she feels a figure of £355,000 is *"reasonable for my claims against HSBC, as they have acted unlawfully and breached many laws and regulations outlined by the Financial Conduct Authority, Information Commissioner's Office and Equality Act 2010."*

Miss B feels that the above failings caused her *"stress and emotional trauma"* and this has triggered mental and physical health conditions including a serious disease for which she is currently receiving treatment. And, Miss B feels a greater amount of compensation is required to cover loss of earnings and medical costs since March 2021. Also, travel costs in June 2021 and the cost of bringing the complaint to our service. In addition, costs to cover historic complaints since 2010.

Furthermore, Miss B points out that our service didn't signpost her to the ICO.

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.

Firstly, before responding to Miss B's above-mentioned points, I'd like to say how sorry I am to hear about Miss B's ill-health. I would also like to explain that the role of the ombudsman service is to consider whether financial businesses have treated their customers in a fair and reasonable way. This service isn't a court of law so we can't test the validity of evidence or make a finding on whether data protection, equality or defamation laws have been broken.

Thinking about everything again and, in light of Miss B's comments, I considered if further compensation is warranted.

Regarding HSBC's mistake, they are confident that this was an isolated incident with no financial or personal data shared. I haven't seen any information that data has been shared without Miss B's permission or that security arrangements were required. And, as mentioned above, it is for the ICO to investigate and determine if there is a breach. However, I'm satisfied that it was a mistake with a significant impact and, based on the information on file, I think the compensation amount reflected in my provisional decision is fair and reasonable.

I'm very sorry to hear about Miss B's ill-health, discontinuation of work and need to return to the UK. However, although I remain satisfied that HSBC's mistake had an impact on Miss B, there is insufficient evidence to show that HSBC are directly responsible for the unfortunate events and circumstances Miss B describes in her submissions. So, whilst I'm sympathetic to Miss B's situation, I don't think it would be fair or reasonable to ask HSBC to pay additional compensation to cover Miss B's health treatment, loss of earnings, travel and security costs or reputational damage.

I'm satisfied that Miss B has characteristics of vulnerability according to the Financial Conduct Authority's guidance on this topic. Also, I'm persuaded that HSBC's mistake would have given Miss B a shock, caused alarm and impacted upon her condition and health.

Putting things right

So, considering all of the above, including Miss B's submission time and the fact that there are historic complaints and another on-going case, I still think £500 is a fair and reasonable amount of compensation for the distress and inconvenience Miss B has experienced here.

My final decision

My final decision is that I uphold this complaint and I require HSBC UK Bank Plc to pay Miss B £500 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 1 February 2023.

Paul Douglas
Ombudsman