

The complaint

Mr H complains that HSBC UK Bank Plc duplicated a balance transfer made from his HSBC credit card to a credit card with a different bank, M, in error causing him to be out of pocket.

What happened

The details of this complaint are well known to both parties, so I won't repeat them here. The facts are not in dispute, so I will focus on giving the reasons for my decision.

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.

Having done so I agree with the conclusions reached by the investigator for these reasons:

- It's not disputed that HSBC duplicated the credit card balance transfer to M in error. It's also not disputed that this wasn't reflected on Mr H's HSBC credit card statement. My role here is to decide what remedy for the error may be appropriate.
- On 17 October 2022 Mr H made a balance transfer from his HSBC credit card to his M credit card for £3,719.15. Without Mr H realising at the time a second duplicate payment was made to his M credit card on or about the same day. A credit balance refund was made on 30 December for this exact amount.
- Mr H told this service that he was receiving various communications between October and December from M informing him that his credit card account was in positive credit. When he checked it he found it was in credit by approximately £3,000. He said when the refund occurred he struggled to get answers to what the error was. It was only in February 2023 when M explained that HSBC had debited the money because it had duplicated the balance transfer in October. Mr H hasn't told this service what he did between October and December when M was reporting significant credit on his credit card account.
- Credit cards are a form of borrowing money and Mr H would have signed terms and conditions for both credit cards. The terms and conditions explain how the credit card works. So I'm persuaded that Mr H was aware or ought reasonably to have been aware that such a large positive balance on his credit card would be unusual.
- Credit card providers are obliged to make regular statements available to customers. So it's reasonable to assume that M was providing statements between October and December, and these would confirm the high balance and the double payment into the account in October. But in the event M didn't provide statements, perhaps because the account was in credit – as in Mr H wasn't technically borrowing against the card – then Mr H has said it was communicating to him that he was in significant credit. And I would reasonably expect him to enquire between October and December where those funds had come from and why they would show up on his

account. It appears he didn't ask questions of M until the funds were removed from the account. If he hadn't provided those funds himself then it's not clear to me why he would assume they were his to use, given this was a credit card account and not a bank/debit account.

- HSBC said *"I'm unable to comment on what the customer was advised by M regarding his card being on credit with them, however, as the customer has not provided the funds to this card, he would have known he was not entitled to these."*

I agree with this.

- The erroneous deposit was the same amount as the balance transfer and was a very specific sum - £3,719.15. Had Mr H enquired about the credit when M first notified him that there was a credit of around £3,000, for example by requesting or viewing statements, I find it likely he would've realised HSBC made a second payment, because it was for exactly the same amount, in error and made contact with it.
- HSBC told us *"I understand the customer is unhappy he was not advised by us that we would be requesting the return of the funds, however, I'm unable to see that the customer has contacted us following the receipt of these to his M credit card, as I would expect."*

I'm persuaded that Mr H was aware or ought reasonably to have been aware between October and December that the additional funds in his M account weren't his to use. So I can't fairly hold HSBC responsible for his usage of the money and I won't be asking it to refund any of the second balance transfer amount.

- I haven't seen a copy of M's terms and conditions for Mr H's credit card. But I've read online M's general terms and conditions for credit cards. It says:
 - *"If we are told, for example by another lender or bank, that someone else has paid money into your account by mistake, we may take from your account an amount up to the mistaken payment amount. We do not have to ask you to agree to this, but will let you know if it happens."*

This appears to be what happened when HSBC notified M that the money had been paid by mistake.

- I haven't seen a copy of HSBC's terms and conditions specific to Mr H's account. But I've read the credit card terms and conditions available on its website. There doesn't appear to be a specific term relating to erroneous payments into another credit card account. But for payments made by mistake it says:
 - *7.1 If we pay money into your account by mistake or because of a systems error, we'll take it back.*

It goes on to say:

- *"7.3 In all other situations, we'll tell you about it. What we'll do then depends on how long ago the payment was made to you. We'll either give you time to show us that it was meant for you before we take it back or we'll ask you to agree first."*

So while these terms do not specifically relate to the kind of error made by HSBC they do indicate that mistaken payments will be taken back, and that HSBC would

notify the customer. I don't think it was unfair for HSBC to recall the amount. But I can see that it hasn't communicated with Mr H clearly about it.

- HSBC has accepted it made a mistake. It said as a token for the distress and inconvenience caused by its error it paid Mr H £100 compensation.
- It does appear that HSBC hasn't communicated with Mr H regarding the duplicate payment or its intention to retrieve the money from his M credit card account. And it only noticed the error some three months after it was made and recalled the money without warning. So I agree with the investigator that £100 isn't sufficient and HSBC should pay Mr H an additional £150 compensation for the distress and inconvenience as well as refunding any fees or charges Mr H may have incurred on his M credit card as a result of this error.
- In response to our investigator's view Mr H said £250 falls short of what he was expecting given the distress and inconvenience he went through to resolve the issue. He said the error was the fault of a global bank who should've been able to undo this with the click of a button. He said he had countless conversations with a number of different people and no one could help him. Mr H said the banks had taken advantage of him and had given him false information leaving him in a state of distress, panic and worry. He asked for 50% of the balance transfer amount.
- I do understand Mr H's strength of feeling in this matter. And I can see that this situation has caused him worry. He has my sympathy. But it is a customer's responsibility to monitor their accounts and I can't see any evidence that Mr H was doing so between October and December. Had he examined statements from his M account I think it likely he would've seen the duplicate deposit in October and would've been able to draw HSBC's attention to it much sooner. In addition such a large amount of credit in a credit card account is unusual and Mr H didn't know where it came from so it wasn't his to spend.

Putting things right

It's not my role to punish a business. And I don't think it's fair that HSBC pay back any of the duplicate balance transfer account. But to put things right it should pay Mr H

- A total of £250 for distress and inconvenience. HSBC has already paid Mr H £100 into his credit card account. It should pay Mr H a further £150. If Mr H should prefer not to receive the money into his credit card account HSBC should arrange to pay him by cheque or into his bank account.
- Refund any fees and charges that may have occurred on his M credit card account because of the error. Mr H must provide evidence to HSBC of these being applied for them to be refunded.

My final decision

My final decision is that I uphold this complaint and HSBC UK Bank Plc must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 13 February 2024.

Maxine Sutton

Ombudsman