

The complaint

Ms K complains HSBC UK Bank Plc (“HSBC”) failed to show it sent payment as instructed to her nominated Russian account in February 2022. Ms K adds HSBC refuses to send her confirmation it was sent, it wasn’t subject to any restrictions, and send an official letter accompanied by its stamp and signature.

What happened

The details of this complaint are well known by both parties, so I won’t repeat them again here in detail. Instead, I’ll focus on setting out some of the key facts and on giving my reasons for my decision.

On 24 February 2022, Ms K instructed HSBC to send £20,000 to her account held with a Russian bank, who I’ll now refer to as X. Ms K was told by X it had not received the funds, and that they were being held by one of HSBC’s intermediaries. HSBC said it had sent the funds to X.

X say it wasn’t sent the £20,000, but as a gesture to show Ms K was a highly valued customer, it would transfer the funds into her account from its own resources. This was done in July 2022.

Later Ms K raised a complaint. HSBC sent her an email response, some of the key points it made were:

- The payment had left Ms K’s account on 24 February 2022, and it wasn’t blocked nor frozen by it, or its intermediary
- HSBC could no longer provide GPI tracker information as the transaction was older than 124 days, but it would reach out to X to find out what caused the delays. But SWIFT messages to X keep failing
- It’s paid Ms K £75 for the time she’s had to spend on the matter and refunded the £5 charge for making the transaction

Ms K explained that she needed this statement sent to her on an official HSBC headed letter and that it needed to be signed by one of its employees along with its official stamp. Ms K explained she intended to take legal action against X, and a Russian court would only accept a letter from HSBC in this prescribed format.

HSBC said it was unable to do what Ms K wanted. Ms K referred her complaint to this service and said it’s her right to obtain such a document. Ms K also said it was unacceptable HSBC were no longer able to provide her with a SWIFT GPI tracker number. And that it should give her the ‘Unique end-to-end transaction references’ – UETR. Ms K says HSBC should send all information to evidence the payment was sent and received by X as it asserts.

Ms K says she is aware X’s access to SWIFT was turned off in March 2022. This was done

due to UK, and other jurisdiction sanctions, against Russian banks.

One of our Investigator's looked into Ms K's complaint. They recommended it be upheld in part. In short, their key findings were:

- HSBC has shown it sent the payment on 24 February 2022 to X
- It was clear Ms K wanted a letter from HSBC, so it should have ignored her normal preference for email and sent one
- Our service wouldn't make judgement on what a Russian court would accept. But as Ms K experienced some distress and inconvenience for not being sent a letter, HSBC should pay her £100 compensation for the impact for this

HSBC said it had sent Ms K a letter in March 2023, but as a gesture of goodwill it would pay her £100 compensation for not issuing it after her initial inquiry. HSBC doesn't stamp or sign documentation for what Ms K has specifically asked for and this is in line with its policy and guidelines.

Ms K didn't agree with what our Investigator said. Some of the key, and novel, points she made were:

- HSBC has not shown through documents and supporting evidence that it did send her payment to X in February 2022
- She doesn't merely want a letter, but an official statement the funds were sent without impediment, on headed paper signed by an official of the bank with their position denoted, and to be stamped
- All such statements made by HSBC to be clear and unequivocal

Our Investigator further explained that the evidence provided by HSBC to show it made the payment wasn't what Ms K had said she wanted. But that it was an internal document from HSBC's systems – so they wouldn't expect it to have sent her a copy. HSBC has also said it can't send Ms K a letter which is stamped and signed – so this service wouldn't be asking it to do so.

Ms K didn't agree with this and said she needs a letter in this format to take legal action against X, and effective evidence from HSBC it sent the payment. Our Investigator reiterated that it is this service's role to informally resolve Ms K's complaint with HSBC. And it isn't to assist her with court action she is undertaking in Russia against X. This is an independent service which doesn't act on behalf of consumers.

Ms K remained unhappy. She emphasised previously made points, and said she needs to know that the evidence HSBC has sent doesn't merely show the funds were sent to one of X's internal accounts, but that they were deposited into her account with it. Ms K also added that the distress and inconvenience she's suffered merits a compensation award of over £1,500 up to £5,000 as HSBC's mistakes have caused her sustained distress. And this would be in line with this service's guidance on such compensation awards.

As there was no agreement, this complaint was passed to me to decide. I then sent both parties my provisional decision in which I said I was planning on upholding the complaint in part. For ease of reference, here is what I said:

Provisional decision

"I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything Ms K and HSBC have said before reaching my decision.

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'm planning on upholding this complaint in part. I know Ms K feels strongly about her complaint, and I'd like to reassure her that I don't undervalue why she does. So I'll explain why.

Funds transfer to X

This forms the crux of Ms K's complaint given she was told by HSBC it had sent the money in February 2022 and X was telling her it hadn't received it. So before I look into any other related complaint points, I need to determine what I think has happened based on the evidence that is available.

As part of my own investigations into this complaint, HSBC has provided me with copies of its SWIFT messages with X on the day of the payment and after. SWIFT is an abbreviation for the Society for Worldwide Interbank Financial Telecommunications. This is a secure messaging system that allows banks to instruct each other on payments and accounts that they hold with each other.

HSBC say the screenshots from SWIFT shows X received the funds on 24 February 2022, but that X were unable to apply them to Ms K's account without HSBC's instructions relating to the beneficiary account details held with X. HSBC say it responded to this query within eight working days on 9 March 2022.

Having carefully considered the screenshots of SWIFT I've been sent; I'm satisfied X had received the funds from HSBC on 24 February 2022. I'm also satisfied the information X needed to credit Ms K's account was sent via SWIFT to it by HSBC on 9 March 2022.

This all means that X did have the funds when HSBC sent them, but they wouldn't have been able to credit them to Ms K's account with it until at least 9 March 2022. I appreciate this is a different finding to what Ms K has been told so far, but based on the evidence I have, I'm satisfied this is what happened.

Because of this, I'm persuaded HSBC has failed to provide Ms K with clear and accurate information about what happened. Some of this may be explained by the confusion and uncertainty that was being caused by imminent sanctions against Russian financial institutions. But HSBC hasn't said this was the case.

In reaching this finding, I must also weigh up how much impact this information failing had on Ms K given the funds were always with X – and they ought to have been available for her to access by 9 March 2022. From the information I have, it's not clear why and if the account beneficiary details, referred to as a MT103 by the banks, weren't sent by HSBC on 9 February 2022 – but I do think eight working days for it to respond is likely too long.

Especially as Ms K was querying what had happened with it from the offset.

Later in my decision I will weigh up what I think is fair compensation for this delay and information failing – but I will add at this point, that HSBC's failings only account for less than two weeks of the money not being available to Ms K. She did after all only receive the funds, albeit as a goodwill gesture, from X in July 2022.

HSBC has agreed the SWIFT screenshots can be sent to Ms K. HSBC has also been able to provide the 'Unique end-to-end transaction references (UETR) for this transaction, something Ms K has asked that she be provided. I note that this number is also visible on the SWIFT screenshots. The UETR number will also be provided to Ms K alongside this provisional decision.

Ms K has also asked for the SWIFT GPI tracker number for her payment – but as she complained only in January 2023, HSBC said it no longer had a record of this. More recently, HSBC accept that it should have given this number to Ms K when she first got in touch and was querying why her payment hadn't reached her account with X. It's possible such information may have led to Ms K sourcing her payment with X much sooner than she was able to - but I can't be sure about this. However, this this is something I will need to consider when making an award for compensation.

Ms K's letter request

Ms K says she has a right to receive an official headed, signed, and stamped letter from HSBC setting out that it had sent the money on 24 February 2022 and that it had not blocked or restricted it in any way. To support this she has referred to the regulator (FCA) and Bank of England's resources and rules.

HSBC accept it should have sent Ms K a letter much sooner and not by email albeit that was her default preference. Ms K had made it clear that she needed this letter in this precise format due to what Russian court would accept as permissible evidence for any action against X.

As I've said, my role is to decide what's fair and reasonable in the circumstances of this complaint after having considered all the available evidence and arguments. In doing so, I must take into account relevant law, regulations, guidance, standards, codes of practice and where appropriate, what I consider to be good industry practice at the relevant time.

HSBC has provided me with its internal policy on when a letter can be stamped. Having considered it, I'm persuaded it doesn't stamp letters in the way and manner Ms K is asking for here.

The Payment Services Regulations 2017 (PSR's) are the applicable regulations here. Part 6 of the PSR's deal with information requirements for payment service providers, like HSBC. Having carefully reviewed this, I can't see HSBC is under any obligation to send a signed and stamped official letter to Ms K. And given its internal policy, I'm satisfied HSBC is applying this in line with its procedures. I also don't think it's acting unfairly nor unreasonably given it has provided a letter to her setting out that it did send the payment.

Fair compensation

As I've said above, I'm persuaded HSBC have made several failings in relation to handling this matter. By way of summary, they are:

- Provision of poor information by not explaining the funds had been sent on*

24 February 2022, but X needed more information about the beneficiary account

- *HSBC should have responded to X sooner than it did via SWIFT to provide the beneficiary details*
- *HSBC should have sent Ms K the letter about sending the payment much sooner than it did*
- *HSBC should have given Ms K the GPI SWIFT tracker number when she first queried the payment around February 2022 to help her locate it*

In mitigation, I need to weigh this up against:

- (1) *The money had been sent to X but should have been available to her from around 9 March 2022. So HSBC isn't responsible for the funds not being available to Ms K from that point onwards*
- (2) *HSBC didn't need to respond to X straight away with the beneficiary details, but given Ms K was chasing this it should have explained why there was a delay and acted in a more urgent manner in responding to X.*

But in doing so, HSBC would need to navigate and be careful of a rapidly changing landscape at that time due to sanctions being applied against Russian entities. This was changing on an hourly basis

- (3) *Even if HSBC had sent Ms K the letter, I'm satisfied it's acted fairly by sending [what it did] about sending the transfer to X, I don't think it would have made any difference given the format Ms K says she needs it in*
- (4) *I can't be sure the GPI tracker would have helped Ms K locate her payment with X, but it's possible it would've helped or at worst would have been something she wouldn't have needed to ask for repeatedly*

Ms K says she should be awarded compensation upwards of £1,500. I'm guided by our approach when making such an award – something I note Ms K has reviewed on our website. Having done so, and for the reasons above, I'm not persuaded the impact on Ms K based on the failings of HSBC, points to sustained distress, which has potentially affected Ms K's health or caused severe disruption to her daily life lasting more than a year.

Ms K was made good for the funds in July 2022 by X – a little over four months after she had sent the funds. She is also likely to be aware that sending funds to Russia at that time carried an element of risk given the wider context.

I'm persuaded that when considering HSBC's failings against the mitigating factors I've considered, it should pay Ms K £450 as its mistakes have contributed to considerable distress and inconvenience. And they've caused Ms K disruption that's needed a lot of extra effort to sort out. In reaching this figure, I strongly emphasise that based on what I've seen X always had the funds and should have been able to allocate them to Ms K's account in early March 2022"

In its response, HSBC say the recommended compensation is too generous. But it has no further points for me to consider.

Ms K says she doesn't agree. In summary, the key points she's made in response are:

- She's not satisfied HSBC has provided any evidence of successfully sending £20,000 to her personal account with X. Nor has she seen evidence which shows her funds weren't transferred and instead remained in one of HSBC's intermediary banks.

A further investigation should be carried out and comprehensive and exhaustive documents provided to show the funds were credit and successfully received by X

- It's not clear why the MT103 wasn't sent immediately alongside the transfer as it contains essential information about the beneficiary – Ms K – without which the transfer couldn't be completed
- Ms K strongly urges that I request HSBC to provide its full correspondence with X including all interbank messages in relation to the transfer – and not has been provided
- HSBC didn't complete all the fields of the MT103 including the senders and receiver's correspondent bank, intermediary bank, beneficiary, and details of charges. There's a possibility the transfer couldn't be completed without this information. Nor is there a response from X that the transfer was successful or if a message was received to say the transfer was unsuccessful.

All the interbank messages haven't been presented and omissions in data fields show the payment wasn't sent, and so the funds remain with HSBC's intermediary bank

- HSBC had told Ms K that interbank messages to X kept failing after 10 March 2022. So as SWIFT was turned off for X, it couldn't have received her funds. Ms K is confident her funds remain with HSBC or its intermediary
- The interbank messages show that X didn't have a routing code up to 10 March 2022, and this was only provided after X's closing hours. So X probably only read the message on 11 March 2022 or later after it had been taken off the SWIFT system
- HSBC failed to provide Ms K with the information she requested and as such has violated her rights to transparency of information. Ms K also asked HSBC on multiple occasions to provide her with a GPI tracker and/or UETR reference, but they weren't provided. This was likely to have been done intentionally
- Ms K says that as her beneficiary details weren't provided when sending the transfer, this is a violation of her rights as no sanctions were in force at the time against X
- HSBC response to X regards the MT103 on 9 March 2022 was sent at 4.40pm, after the close of business. As it was sent late on 10 March 2022 to X at its local time in Russia, and as X was cut off from SWIFT on 12 March 2022, this shows the funds remained with HSBC and/or its intermediary
- HSBC's official information about making international payments says Faster Payments are instant but can potentially take up to two hours. But there are situations where this can take longer. International payments can take up to four days depending on the country the payment is being sent to
- After the transfer went missing, Ms K made several attempts to reverse the transfer

back to her HSBC account. In attempting to do so, Ms K had to make calls to HSBC's customer service department which resulted in long, 30 to 40 minutes, waiting times with constant disconnects.

Ms K was also passed from department to department. This shows the poor customer service, obstruction, and unprofessionalism she had to suffer from HSBC. Ms K spent around 270 minutes on the calls and started doing so from 4 March 2022

- To say Ms K didn't suffer significant damage to her health and finances, is ill made. Deposits in sterling, Euros and US dollars were and remain blocked by Russian banks since 9 March 2022. Ms K had to flee from the war, and has been unemployed since 14 March 2022
- Ms K has developed chronic health conditions both physical and mental
- In conclusion, HSBC unlawfully blocked Ms K's transfer as sanctions were not in force at the time and deceived her about the status throughout. So without further evidence, Ms K finds her funds are still blocked and frozen by HSBC and/or its intermediary
- This service should investigate the matter further to reveal the true destination of her funds. And if this shows the £20,000 is still blocked in the HSBC intermediary bank, it should pay her 50% - £10,000 – as moral compensation for providing false information
- HSBC should also reimburse Ms K for all her expenses and time spent chasing the issue. HSBC should also compensate Ms K for its intentional neglect in her attempts to reverse the transfer

I will now decide this complaint.

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, and predominantly for the reasons in my provisional decision – as above – I have decided to uphold this complaint in part.

In her responses to my provisional decision, Ms K says the evidence I've been presented by HSBC isn't sufficient to find that it sent the transfer to X. Because of this she says the matter needs to be further investigated as she still maintains the funds sit with HSBC's own intermediary bank.

In my provisional decision, I said:

“Having carefully considered the screenshots of SWIFT I've been sent; I'm satisfied X had received the funds from HSBC on 24 February 2022. I'm also satisfied the information X needed to credit Ms K's account was sent via SWIFT to it by HSBC on 9 March 2022.

This all means that X did have the funds when HSBC sent them, but they wouldn't have been able to credit them to Ms K's account with it until at least 9 March 2022. I appreciate this is a different finding to what Ms K has been told so far, but based on the evidence I have, I'm satisfied this is what happened.

Because of this, I'm persuaded HSBC has failed to provide Ms K with clear and accurate information about what happened. Some of this may be explained by the confusion and uncertainty that was being caused by imminent sanctions against Russian financial institutions. But HSBC hasn't said this was the case"

I haven't been provided any new evidence nor compelling arguments that HSBC didn't send X the funds. In fact, from what I've seen X effectively accepted it had but didn't receive the beneficiary details. I accept that it's unclear why these weren't sent from the offset by HSBC. And the compensation I recommended considered the delays HSBC affected by not sending this to X quicker.

But I'm not persuaded that when HSBC did send the beneficiary details to X, that it was too late given the SWIFT disconnection X suffered. From the date ranges provided, I'm persuaded the information was provided to X. HSBC isn't responsible for any acts or omissions on X's part, and it's equally possible there may have been failings on X's part – which I'm not able to consider.

But I still find – as detailed in my provisional decision - that HSBC failed to provide Ms K with better and accurate information when she started contacting and querying it about the transfer.

So overall, I'm still reaching the same conclusion about X receiving the funds, and the beneficiary details, from HSBC. In doing so, I'd like to assure Ms K that I've thought very carefully about everything she has said. But from the information I have, I think it's most likely HSBC sent the funds to X and they were received.

Fair compensation

Ms K says she should be paid £10,000 as moral compensation by HSBC. She also has sent in submissions about her health and mental wellbeing being impacted by HSBC's failings, and the inconvenience she's endured in having to repeatedly contact it.

I've already explained what I think are HSBC's failings and the mitigating factors I've considered when reaching what I think is fair compensation. I still don't think HSBC's actions have impacted, in isolation, Ms K's health on a long-term basis as she suggests. Nor do I think HSBC are responsible for Ms K's unemployment.

Ultimately, X made Ms K good in July 2022 when it credited her the amount she had transferred. So I'm still persuaded, when considering HSBC's failings against the mitigating factors I've considered, that it should pay Ms K £450. Its mistakes have contributed to considerable distress and inconvenience.

In reaching this figure, I'd like to assure Ms K that I considered the time she spent contacting HSBC – this is something that is subsumed under *inconvenience*.

My final decision

For the reasons above, I have decided to uphold this complaint in part. I now direct HSBC UK Bank Plc to pay Ms K £450 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 8 October 2024.

Ketan Nagla

Ombudsman