

The complaint

The estate of the late Mr P has complained about HSBC UK Bank Plc sending back an overpayment without the estate's authority. Mr A, as executor, is representing the estate.

What happened

Both sides are most familiar with the case, and we must keep decisions anonymised, so I'll summarise what happened relatively briefly.

In autumn 2024, Mr P unfortunately passed away.

Following his passing, the Department for Work and Pensions (DWP) continued to pay his state pension, as they were not yet aware he'd passed away. This came to around £270.

The DWP asked HSBC to return the overpayments, and to not forward their correspondence to anyone else. HSBC did so.

Mr A complained on behalf of the estate, arguing there wasn't a legal basis to pay the DWP. HSBC explained they'd been asked not to share the correspondence from the DWP. They confirmed they'd normally ask the estate's representatives before making a payment, and they'd got things wrong, though they noted they were just returning money the estate wasn't originally due. They apologised, gave internal feedback, and paid Mr A £250 compensation.

Mr A brought the estate's complaint to our service, and asked us to focus on the issue of the disputed payments. Our Investigator looked into things independently and didn't uphold the complaint. Mr A requested an ombudsman's final decision, so the complaint's been passed to me to decide.

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.

In doing so, I've taken into account everything which both sides have said and provided. Though I won't necessarily comment on every single argument or piece of evidence on a point-by-point basis, as a court might. We're an informal alternative to the courts, here to decide cases more quickly and with minimal formality. So I'll keep my decision focused on what I've found to be the key points.

Firstly, I do appreciate that dealing with a bereavement is difficult at the best of times. And I appreciate that Mr A has gone to great effort on the behalf of the estate. I understand that this cannot have been an easy time, and I'm grateful to Mr A for being open and candid with us about how he's felt in this matter.

Turning to the matter at hand, both sides accept that HSBC got things wrong here. HSBC accept they were supposed to clear payments with the estate's representative – as they did when repaying a housing benefit overpayment. I'm glad that HSBC have accepted they were mistaken, apologised, and given feedback to their staff. But I understand why this may not have repaired their relationship with the estate.

Mr A argued that because HSBC got things wrong, we must uphold the estate's complaint. And I completely understand his thinking. But even when a bank gets something wrong, it doesn't necessarily mean we'll uphold the case. Broadly speaking, we'd only uphold the case if we were making an award. And the bank getting things wrong won't necessarily mean an award is due. For example, we can only make an award for losses to the eligible complainant – here, the estate – but not to other parties such as the estate's representatives or creditors. And we'd only make an award if the bank's error caused an applicable loss to the complainant. I'll go on to explain these points in more detail. The point I want to explain here is that we're not here to issue fines or to punish banks for making mistakes, and we don't set the industry's processes – that's done by the regulator, the Financial Conduct Authority (FCA). I'm just considering what happened in this individual situation between the estate and HSBC, and considering whether an award is due here.

So, we've established that HSBC got things wrong in allowing the overpayments to be repaid without the proper authority. This was in breach of the relevant rules and processes. The question, then, is what losses this caused to the estate. I'll first consider the financial impact.

The estate did technically lose around £270 from the pension overpayments being returned. But normally, in situations like Mr P's, once someone dies, they (and by extension their estate) lose their entitlement to the state pension, and the payments are supposed to stop. We have confirmation from the relevant official government body that Mr P's estate was overpaid in error. The dates and amounts match up, what they've said is in line with how entitlement to pension benefits changes upon passing away, and I've found no compelling reason to doubt that these were overpayments. While I understand Mr A objects to the term overpayment, if someone is paid a benefit over what they're owed, that is usually called an overpayment. And the recipient is normally not entitled to such overpayments – as Mr A accepted when it came to repaying the estate's housing benefit overpayment.

I appreciate that Mr A has raised arguments about what legal basis the DWP would or wouldn't have to recoup overpayments, and about the DWP's calculations. But the estate's related dispute with the DWP is outside of my jurisdiction. If Mr A believes that the DWP acted unlawfully, I'm afraid that's something the estate would need to pursue with the DWP directly – it is still free to try challenging the matter with the DWP. I can only consider the dispute between the estate and HSBC. And my decision is based not just on the letter of the law, but what I find to be fair and reasonable in these circumstances.

Based on what I have, as far as I can see the estate was not entitled to this £270 or so in the first place. According to the official body and how this generally works, the estate received the overpayments in error. So that money would fairly and reasonably be due back to the DWP, regardless of how well the DWP could've enforced that. To help explain this principle, I can put it this way. Let's imagine that Mr A sent someone some money by mistake, which the recipient wasn't entitled to. Let's imagine Mr A then struggled to enforce his money's return. And on that basis, the recipient then chose to keep Mr A's money – even though the recipient reasonably understood they weren't entitled to receive it in the first place. I doubt that Mr A would think it was fair or right for the recipient to keep his money, when the recipient wasn't supposed to have it in the first place – regardless of any potential enforcement issues on Mr A's side.

As such, I do not consider the returning of these overpayments to be an appropriate loss which I could fairly make an award for. Because ultimately, it would not be fair or reasonable for me to tell HSBC to reimburse the estate for the “loss” of funds which the estate wasn’t supposed to receive in the first place. So I do not find that the estate suffered a relevant financial loss in regard to the disputed payments. Instead, as far as I can see the estate was effectively put back in the financial position it would’ve been in had the original mistake – the sending of the overpayments to the estate – not been made.

I’ll then turn to the non-financial losses – i.e. the upset caused. Again, I appreciate Mr A’s efforts in administering the estate, and I understand he’s faced a good deal of stress and upset when dealing with HSBC, for which he has my sympathy. For example, he’s set out issues with things like not being given the amounts or correspondence involved, delays, not being called back, the way the complaint was handled, and so on. And I understand he’s found the disputed payment issue to be particularly galling.

As I mentioned before, I don’t have the power to make awards to people like the estate’s representatives or creditors who are not eligible complainants – even if I accept that Mr A was mistreated by HSBC. I can see that HSBC have apologised and paid Mr A £250 compensation for the stress and upset they caused him, and I’m afraid I cannot make them do anything more than that regarding Mr A’s losses.

When it comes to Mr P, this matter happened after his passing, and I’m only able to consider stress, upset, or disrespect he might have suffered while living. And when it comes to the estate itself, the estate isn’t an actual living person but a legal construct, which is not considered to be able to suffer stress and upset in and of itself. As such, I’m not able to make an award for non-financial losses there either. And as I mentioned before, we’re not the regulator, so we don’t issue fines or punish businesses.

So while I have found that HSBC got things wrong, and I appreciate that Mr A has found the matter most stressful, I don’t have any basis on which I can fairly make an award. If the estate feels that the DWP has taken the overpayment back unlawfully, I can only suggest that it pursues the DWP directly. I understand this is not the outcome that Mr A was hoping for. But given the case at hand and the points I went through above, I’m unable to reasonably reach any other conclusion.

My final decision

For the reasons I’ve explained, I don’t uphold this complaint.

This final decision marks the end of our service’s consideration of the case.

Under the rules of the Financial Ombudsman Service, I’m required to ask the estate of Mr P to accept or reject my decision before 24 September 2025.

Adam Charles
Ombudsman