

The complaint

The estate of Mrs S is unhappy with the process required by HSBC UK Bank Plc surrounding the release of money belonging to the estate to the named executor.

This complaint is brought to this service on behalf of the estate by Mrs S's son, who is the sole executor and sole beneficiary of the estate, and whom I'll refer to as 'Mr K'.

What happened

Sadly, in October 2022, the late Mrs S passed away. Mr K was named to sole executor and sole beneficiary of Mrs S's estate. However, Mr K resides overseas, and HSBC's policies surrounding the release of estate money to executors living overseas includes that the executor must send copies of personal identity documents to them that have been certified at a British embassy or consulate located in the relevant overseas territory.

Mr K wasn't happy about this as the value of his mother's estate was relatively low, and because he didn't live close to a consulate the cost of certifying his personal identity documents at a consulate would be relatively high. And Mr K also wasn't happy that HSBC were unwilling to make any exception to their policy on this matter. So, he raised a complaint on the estate's behalf.

HSBC responded to Mr K and explained that they weren't willing to deviate from their policy. Mr K wasn't happy with HSBC's response, so he referred the complaint to this service.

One of our investigators looked at this complaint. But they felt it was for HSBC to set their policies regarding such matters and so didn't uphold the complaint. Mr K remained dissatisfied, so the matter was escalated to an ombudsman for a final 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.

I issued a provisional decision on this complaint on 25 August 2023 as follows:

While the review process for this service has been ongoing, HSBC have changed their position on this matter and have recently confirmed to Mr K that they will be releasing the money belonging to the estate to him. And HSBC have also agreed to pay an additional £350 to Mr K as an apology to him and to cover any expenses incurred and any potential loss of interest on the funds.

HSBC's resolution to this complaint seems reasonable to me, and I note the £350 payment to Mr K corresponds to approximately 12% of the value of the estate - which is the same percentage amount that Mr K explained to this service he was concerned he would have to spend to comply with HSBC's requirement to have his documents certified at a consulate.

Mr K may point out that the reason HSBC have changed their position on this matter is

because he discovered that the UK consulate in the overseas territory in which he resides doesn't offer a personal identity document certification service as HSBC appeared to have expected it to offer. I've verified that this is the case, and I note that the consulate refers UK citizens looking to certify personal identity documents for banks to local solicitors or notaries. And this means that even if Mr K had attempted to comply with HSBC's requirements, he wouldn't have been able to do so.

But UK consulates in overseas territories often do offer such services – hence HSBC's requirement for document certification at a consulate. And Mr K didn't attempt to comply with HSBC's requirements but instead continued to argue against them.

Ultimately, it's for HSBC to set their policies as to what they require from overseas executors. And given that HSBC apply their policy to all overseas executors without exception, I don't feel that HSBC did treat Mr K unfairly by insisting that he adhered to that policy – while HSBC were of the understanding that it was possible for Mr K to do so.

Additionally, I feel that if it had been demonstrated to HSBC by Mr K that he was unable to comply with their policy because the relevant service wasn't offered by the UK consulate in the country in which he resides, then I feel HSBC would have offered an alternative solution to him at that time.

Thankfully, the outcome that Mr K was seeking has now been agreed upon by HSBC. And in consideration of the further £350 HSBC have agreed to pay Mr K, it must be noted that this service can't award compensation to an estate for distress or upset. This is because an estate is a legal entity and not a person, and so can't experience distress or upset.

Mr K may counter that he can experience distress and upset, and that he has. But Mr K isn't the eligible complainant here, as per the DISP rules of the FCA Handbook by which this service must abide. Instead, the eligible complainant is the estate of Mrs S.

This service can award compensation to an estate for inconvenience unfairly incurred by that estate. But I don't feel that the estate of Mrs S has been unfairly inconvenienced here. This is because I'm satisfied that it was fair for HSBC to insist the Mr K comply with their requirements. And because, in the absence of any information to the contrary, I feel it was reasonable for HSBC to assume it was possible for Mr K to comply with their requirements.

All of which means that I feel that HSBC's recent decision to release the money belonging to the estate to Mr K and to pay Mr K a further £350 already represents a fair resolution to what's happened here. And it follows from this that I won't be upholding this complaint or instructing HSBC to take any further action.

Mr K has provided several detailed responses to my provisional decision. I'd like to thank Mr K for these submissions, and I hope he doesn't consider it a discourtesy that I won't be responding in similar detail here. Instead, I've continued to focus on what I consider to be the key aspects of this complaint, in line with this service's role as an informal dispute resolution service.

This means that if Mr K notes that I haven't addressed a specific point he's raised, it shouldn't be taken from this that I haven't considered that point – I can confirm that I've read and considered all the submissions provided by both Mr K and HSBC. Rather, it should be taken that I have considered that point but that I don't feel it necessary to address it directly in this letter to arrive at what I consider to be a fair resolution to this complaint.

Mr K has explained that he feels he is an eligible complainant in his personal capacity under the DISP rules. But I don't agree, and I remain satisfied that the eligible complainant for this

complaint is the estate of Mrs S. One reason for this is because I'm satisfied that the HSBC process about which Mr K is unhappy – the requirement for him as the executor of the estate to verify his identity at a consulate – is a process that applied to him in his capacity as an executor of the estate of Mrs S.

Mr K has also explained that he feels HSBC could have referenced an alternative process that was available to them regarding the certification of his documents. But I'm satisfied that it's for HSBC to set the processes they require executors based overseas to adhere to. And it isn't for Mr K, or indeed any individual, to require HSBC to apply an alternative process in any given circumstance.

All of which means that it remains my position that the actions that HSBC have already taken here have provided a fair and reasonable resolution to this complaint. And it follows from this that my final decision is that I do not uphold this complaint and that I won't be instructing HSBC to take any further action.

I realise this might not be the outcome that Mr K was wanting, in either his personal capacity or in his capacity as the executor of the estate of Mrs S. But I hope that Mr K will understand, given what I've explained, why I've made the final decision that I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs S to accept or reject my decision before 25 October 2023.

Paul Cooper
Ombudsman