

## **The complaint**

Miss M complains about the way that HSBC Life (UK) Limited handled an incapacity claim she made on a group income protection insurance policy.

## **What happened**

The background to this complaint is well-known to both parties. So I've simply set out a summary of what I think are the key events.

Miss M is insured under her employer's group income protection scheme. The policy includes a deferred period of 26 weeks.

In June 2022, Miss M was signed-off from work suffering from severe fatigue. In August 2022, an incapacity claim was made on the policy. HSBC Life asked Miss M's GP for a copy of her medical records in early October 2022. Unfortunately, the GP didn't provide HSBC Life with a copy of Miss M's medical records for around 16 weeks – until 27 January 2023. So HSBC Life wasn't in a position to make a decision on Miss M's claim.

Subsequently, in early February 2023, HSBC Life decided to accept Miss M's claim. It also asked a third-party wellbeing company to contact Miss M to support her with her recovery. However, HSBC Life didn't let Miss M know that the claim had been accepted, or that she'd be contacted by the third-party. Miss M only learned both of these things when the third-party company called her.

HSBC Life contacted Miss M to let her know that her claim had been accepted and would be backdated to the end of the deferred period – 5 December 2022. The claims handler told Miss M that benefit would be paid in February 2023. But this wasn't the case. Ultimately, Miss M wasn't paid benefit until March 2023. She said she'd had to borrow money from a relative and be paid an emergency advance from her employer.

Miss M was unhappy with HSBC Life's handling of her claim and she complained. She asked the complaint handler to listen to all of her calls with the claims handlers. She also felt that by passing on her details to the third-party wellbeing company, HSBC Life had breached data protection laws.

HSBC Life concluded that it hadn't handled Miss M's claim as well as it should have done. It accepted that one of its claims handlers had wrongly told Miss M that benefit would be paid in February 2023. It accepted too that another claims handler had wrongly told Miss M there was provision for benefit to be paid 'on-account' outside the policy terms. This wasn't the case and would only happen in exceptional circumstances. HSBC Life agreed that Miss M should have been told before a referral to the third-party wellbeing company was made. It acknowledged that it could have pro-actively assisted Miss M in arranging an emergency payment from her employer. It apologised for the financial and emotional concerns its handling of the claim had caused Miss M, although it felt its claims handlers had treated Miss M sympathetically and empathically. It paid Miss M £1000 compensation.

Miss M remained unhappy with HSBC Life's handling of her claim and of her complaint. She

felt the complaint handler had been rude to her and that HSBC Life hadn't responded to her complaint in a timely way. She was also unhappy that the complaint handler hadn't listened to all of her calls with its claims handlers. While HSBC Life issued a second final response letter which accepted that the complaint handler hadn't dealt with a call with Miss M in an appropriate way, it concluded that overall, it had already paid her fair compensation.

Remaining dissatisfied with HSBC Life's responses, Miss M asked us to look into her complaint. She was also concerned that there'd been a further breach of data protection laws and she didn't feel that HSBC Life had recognised her vulnerabilities when it assessed her claim or looked into her complaint.

Our investigator didn't think HSBC Life had handled Miss M's claim in the way it should have done. He thought the claim could have been paid sooner. And he thought the service Miss M had received from HSBC Life would have caused her some frustration and upset. But overall, he felt that £1000 was fair compensation to recognise the impact HSBC Life's service errors had had on Miss M.

Miss M disagreed and I've summarised her responses to our investigator:

- She felt that HSBC Life hadn't considered or addressed her vulnerability, which she thought it was required to do. She stated that a vulnerable marker hadn't been placed on her file. The compensation she'd been paid didn't take account of her vulnerability;
- The complaint handler hadn't listened to all of her calls with HSBC Life's claims handlers. Her calls with the first claims handler were key to understanding her vulnerabilities. Compensation had been awarded without taking a holistic view of the events;
- She considered that as the calls hadn't been listened to, the outcome which had been reached wasn't evidence-based;
- She questioned again the further data breach she felt she'd identified.

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.

Having done so, whilst I'm very sorry to disappoint Miss M, I think HSBC Life has already paid her fair compensation and I'll explain why.

First, I was sorry to hear of Miss M's illness. I don't doubt what a difficult and upsetting time this has been for Miss M and her family. I'd also like to reassure Miss M that whilst I've summarised the background to her complaint and her detailed submissions to us, I've carefully considered all she's said and sent us. In this decision though, I haven't commented on each point she's been raised and nor do our rules require me to. Instead, I've focused on what I think are the key issues.

I must also make it clear that under our rules, I can only consider complaints once a financial business has had an opportunity to look into them and to issue a final response. I appreciate Miss M has real concerns about what she considers to be a second data breach by HSBC Life when it paid her compensation. I've looked carefully at both final response letters to

Miss M's complaint points and the second data breach hasn't been addressed by HSBC Life. In the circumstances and given Miss M's strength of feeling about this issue, I don't think it would be appropriate for me to consider that point here. In my view, it would be more appropriate for Miss M to raise a new and separate complaint about that issue with HSBC Life and/or to bring her concerns to the Information Commissioner's Office for investigation.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. HSBC Life accepts that it didn't handle Miss M's claim as well as it should have done and that it caused Miss M anxiety, upset and inconvenience. It's already paid Miss M £1000 compensation. So I now need to consider whether I think this was a fair award in all the circumstances.

In August 2022, an incapacity claim was made on the policy. Under the terms of Miss M's employer's contract with HSBC Life, in order for benefit to be paid, a claim must meet the policy definition of incapacity, for the entire 26-week period and beyond. It's a general principle of insurance that it's an insured's responsibility to provide enough evidence to show they have a valid claim on their policy. This means that Miss M needed to provide HSBC Life with enough medical evidence to demonstrate that she was incapacitated, in line with the policy terms.

On that basis, I find that it was reasonable and appropriate for HSBC Life to request medical information in order to assess Miss M's claim. I've seen a copy of a consultant's letter dated December 2022, which indicated that Miss M's condition wouldn't generally preclude her from working, so I don't think it was unfair for HSBC Life to require more evidence prior to accepting the claim. The majority of the claim delay appears to have been down to the GP taking 16 weeks to provide Miss M's medical records. I can't fairly or reasonably hold HSBC Life responsible for any delays on the part of the GP practice.

Nor do I think it was unreasonable for HSBC Life to decline to pay Miss M an 'on-account' benefit payment prior to all the medical evidence being received and assessed. This simply isn't something HSBC Life has chosen to include in the policy terms. I appreciate that HSBC Life says such a payment may be made in exceptional circumstances. But in this case, it says the consultant's letter of December 2022 simply wasn't enough to show the policy terms would be met. As I've explained, I don't think this was an unfair position for HSBC Life to take. And I don't think that in these circumstances, it would be fair or reasonable for me to find that HSBC Life ought to have paid the claim before it was satisfied that Miss M's claim was covered by the policy terms.

However, I do think there were avoidable delays in HSBC Life's handling of this claim. It appears HSBC Life were notified of the claim in August 2022, but that it didn't ask for medical evidence until early October 2022. While the deferred period didn't end until December 2022 (and it therefore appears that the earliest Miss M could've received benefit was January 2023), it seems to me that the claim could've been progressed and settled some weeks sooner than it was. In my view, it's more likely than not that benefit payments could've commenced in January 2023, rather than around two months later. I appreciate the delay in payment caused Miss M unnecessary worry, upset and inconvenience – and that she had to borrow money from a family member.

It's clear too that even once HSBC Life had decided to accept the claim, it made further errors. The policy terms do require an insured member to make attempts to engage with rehabilitation specialists to enable a return to work, so I don't think a referral to a third-party wellbeing company with details of Miss M's health and claim was unreasonable. I note Miss M signed a consent form which authorised HSBC Life to share her medical reports with third parties. But HSBC Life acknowledges that it failed to let Miss M know either that her claim had been accepted or that a referral had been made. And I don't doubt how frustrating it was

when Miss M received a call she wasn't expecting and learned about the referral that had been made.

And HSBC Life's claims handler also wrongly told Miss M that she'd be paid benefit in February 2023. Given what Miss M has told us about her financial situation at the time, I can entirely understand how disappointing, worrying and distressing it was when Miss M learned that this wasn't correct and she wasn't paid until March 2023. I was pleased to hear that Miss M was able to access an emergency payment from her employer – but I don't think this negates HSBC Life's error, nor its failure to proactively assist Miss M in making such a request to her employer. I say that because HSBC Life accepts that it ought to have done so.

I'd add too that it must have been even more upsetting for Miss M when she spoke with the complaints handler and felt that she'd been treated rudely. HSBC Life agreed that the call was unacceptable and I appreciate that this would have caused Miss M even more upset at a time when she was already very distressed, unwell and unhappy with the service she'd received from HSBC Life.

It's clear then that HSBC Life did make significant mistakes in its handling of Miss M's claim. I think these are likely to have added to Miss M's trouble, upset and anxiety at a time when she was inevitably worried about her health and personal situation. So I find it was appropriate and fair for HSBC Life to conclude that it should pay Miss M compensation to reflect the impact of its claims handling and service on her.

Miss M has real concerns that HSBC Life didn't take account of her vulnerability when it assessed her claim and when it looked into her complaints. I understand she wanted the complaint handler to listen to all of her calls with the claims handlers as part of their investigation. However, based on what I've seen, I don't think it was unreasonable for HSBC Life to conclude its investigation based on what the complaint handler felt was relevant evidence. That's because I think the first final response letter shows they'd understood Miss M's concerns and had acknowledged many of them. And I note that their final response refers to Miss M *'being in a vulnerable position'* and acknowledged her concern, worry and upset at the time. The final response also states that HSBC Life didn't dispute that its errors had caused Miss M anxiety and concern, *'especially at such a challenging time, when (she was) unwell and unable to work.'* So I think HSBC Life did take into account Miss M's vulnerability when it investigated her complaints and took this into account when calculating a global compensation award.

I've thought very carefully about the compensation HSBC Life has paid Miss M. In my view, it has been calculated holistically and taking into account the errors HSBC Life accepts it made. I must make it clear that our compensation awards aren't designed to fine or punish the businesses we cover. Instead, they're designed to reflect the likely impact of a financial business' errors on a consumer. In these circumstances, taking into account Miss M's ill-health and her natural concern about her financial position while the claim remained unpaid, I think HSBC Life's errors did cause Miss M significant and unnecessary upset and frustration and a broadly two-month period of unnecessary delay. I find that the substantial compensation award of £1000 which HSBC Life has already paid is fair, reasonable and proportionate to reflect the adverse impact HSBC Life's errors are likely to have had on Miss M. So it follows that I think HSBC Life has already paid Miss M fair compensation and I'm not directing it to pay anything more.

### **My final decision**

For the reasons I've given above, my final decision is that HSBC Life has already settled Miss M's complaint fairly and reasonably.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 2 November 2023.

Lisa Barham  
**Ombudsman**