

## **The complaint**

Miss B says HSBC UK Bank PLC (“HSBC”) should refund her for unauthorised transactions on her account.

## **What happened**

The facts of this case are well known to both parties, so I won’t repeat them in detail here.

In summary, Miss B says she was in an abusive relationship between February and October 2023, and she was forced by her abuser to make withdrawals from her account. Miss B has disputed five withdrawals from October 2023, one ATM transaction and four over-the-counter withdrawals.

HSBC says the ATM withdrawal was completed via Miss B’s genuine card and PIN, and it has already explained to her these shouldn’t be shared with anyone, so it has held her responsible for this transaction. It also says the four over the counter branch cash withdrawals required her to show a valid ID and sign to approve the transaction. And even though she says she was under duress at the time, she did authorise and consent to all the transactions, so she is liable for them.

Our investigator considered this complaint and decided not to uphold it. Miss B didn’t agree so the complaint has been passed to me 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.

Firstly, I would like to say I’m sorry to hear of the difficulties Miss B faced in her previous relationship. It sounds like an extremely traumatic time, and I’m glad to hear she is now safe.

Generally speaking, HSBC is required to refund any unauthorised payments made from Miss B’s account. Those rules are set out in the Payment Service Regulations 2017. Miss B says she didn’t authorise the withdrawals, but HSBC says she did. So, I will consider this below.

The ATM transaction was carried out using Miss B’s genuine card and PIN. Miss B didn’t report her card as lost or stolen during this time, and there is no evidence of how someone else could’ve known her PIN unless she told them. Miss B’s testimony is that her ex-partner used to help with her finances before he became violent. She says he had her card and PIN and had control of the account. From this it seems Miss B gave her ex-partner the authority to use her account. I understand what she says about not consenting to him making this ATM withdrawal, however, the act of giving the card and PIN to him is enough to say she was giving him the authority to use it. And without taking steps to ensure this authority was removed, any transactions he made using the card and PIN would be deemed as authorised.

Miss B also says that the over-the-counter withdrawals were not authorised, as she was forced to make these while her ex-partner waited outside. She is not saying she didn't make these herself, but she did so under duress, so she says she didn't consent to them.

However, giving consent, according to the PSRs, doesn't consider the consumer's awareness or mental state at the time. And being forced under duress is also not considered. HSBC has provided evidence to show that the withdrawals would've only been made if Miss B brought a valid ID and signed the declaration. There are no notes on the system about the abuse before these withdrawals were made, and there is no evidence that HSBC had any cause for concern when Miss B made the withdrawals. So, the withdrawals in question are authorised under the law that applies.

I know this is not the outcome Miss B was hoping for, however, the regulations are clear on authorisation and consent. So, I am not able to make a finding these transactions were unauthorised. Had HSBC had knowledge of Miss B's situation perhaps it would be fair to have expected it to do more. But since it didn't know, I don't think it would be fair to say it should have done more to protect Miss B's account.

### **My final decision**

For the reasons outlined above, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 11 March 2025.

Sienna Mahboobani  
**Ombudsman**