

The complaint

Mr R complains that HSBC UK Bank Plc has declined to reimburse payments that he says he didn't make or allow anyone else to make.

What happened

Mr R opened an account with HSBC and deposited £8,000. He says he never received his card or PIN, and realised someone had made payments from his account when he received a notification that his account was overdrawn.

Mr R is disputing 21 payments, which are all cash withdrawals, totalling £9,000 that took place between 9 October and 1 November 2024. Mr R was abroad for some of this time-period and says he was unwell upon his return.

HSBC declined Mr R's fraud claim on the basis that it didn't consider the activity to be consistent with third party fraud. When Mr R raised a complaint, it maintained this position but awarded £75 to apologise for a branch error where Mr R's letter wasn't scanned to its system.

When Mr R referred his complaint to our service, the investigator didn't uphold it. In summary, they explained they thought HSBC had fairly declined Mr R's fraud claim, and that the compensation paid was fair in the circumstances.

Mr R didn't agree, he said his post could have been intercepted and he wanted at least some of his funds back.

As an agreement couldn't be reached, the matter has been passed to me for a decision by an ombudsman.

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, I've reached the same conclusion as the investigator for similar reasons.

As Mr R is disputing payments on the basis that they are unauthorised, the relevant law here is the Payment Services Regulations 2017. The starting point is that HSBC can hold Mr R liable for authorised payments, and that subject to certain exceptions HSBC should reimburse unauthorised payments.

Has HSBC acted fairly in treating the disputed payments as authorised?

Unfortunately, we can't know for certain what happened here. Where evidence is incomplete or contradictory, I need to make a finding on the balance of probabilities and conclude what I think is more likely than not to have happened on the evidence available.

HSBC has shown that the disputed payments were all cash withdrawals at ATMs where the

genuine card was used alongside the correct PIN. So, I'm satisfied that the payments were correctly authenticated.

The remaining element of authorisation is whether Mr R consented to the payments or to someone making them on his behalf. As Mr R was abroad when some of the payments were made, he can't have completed them all himself, but HSBC could still treat them as authorised if they were made by someone else with his permission.

Mr R says that he didn't make or allow anyone else to make a payment from his HSBC account. On balance, I think HSBC has acted fairly in concluding this wasn't the case for the following reasons:

- Mr L says that he doesn't live in a shared accommodation where others have access to his post, he only lives with his mother who is in ill health. He insists the card and PIN were never delivered to his house. Mr R has also said that no-one knew that he had opened a new account or credited it with £8,000.
- So, there's no suggestion that someone he knew could have taken his card and PIN and used it at their leisure knowing he was abroad or unwell. I'm persuaded this is unlikely based on how he has described his living situation.
- I've therefore gone on to consider the likelihood of the payments being made by an unknown third party. I understand Mr R thinks that his card and PIN could have been intercepted while in the postal system. While this is a possibility, I don't find this to be the more likely option – this is because the activity on the account isn't consistent with an opportunistic fraudster.
- The first payment is for £200 on 9th October 2024, the card is not then used again until the 11th October 2024. It's unlikely that someone who had Mr R's card and PIN, and the intention of stealing money, would wait like this. An unknown third party would have no way of knowing that Mr R was abroad or that he wouldn't notice money missing from his account. So, it doesn't appear that whoever had the card had the initial intention of taking as much money as possible before Mr R could identify what was going on and cancel his card. I say this because larger amounts could have been withdrawn, and purchases could have been made.
- HSBC has also said there weren't balance enquiries or attempts to use the card after Mr R reported the matter. An unknown third party wouldn't have known when Mr R became aware of what was going on, and you'd expect they might try to keep withdrawing money until an attempt was declined.
- I understand Mr R has concerns about how the card was activated, but it isn't for our service to tell businesses how to set their policies and procedures. HSBC hasn't made an error in allowing the card to be used.

So, for the reasons explained, I think HSBC has acted fairly in holding Mr R responsible for the disputed payments.

I note that HSBC has paid Mr R £75 compensation for customer service issues that came up in relation to his fraud claim. It appears to have failed to scan a letter in branch which meant Mr R had to spend additional time calling HSBC about the matter. While I appreciate this must have been frustrating and came at a stressful time, I think HSBC has already paid a fair amount to recognise the impact this error had on him.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 22 April 2025.

Stephanie Mitchell
Ombudsman