

The complaint

The estate of Mr P says HSBC UK Bank PLC ("HSBC") refuses to refund it for unauthorised transactions on its account.

This complaint has been brought by a representative of the late Mr P's estate, for ease I will refer to them as "T". And in the hope that both parties don't mind I will refer to the late Mr P simply as "Mr P" for ease.

What happened

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

In short, T says Mr P's account was used without his consent, and HSBC should refund all the unauthorised transactions. The transactions in dispute are a mix of ATM withdrawals, card payments and a £10,000 cheque. T believes this was all done by a family member who Mr P was living with, before he sadly passed away.

HSBC says the transactions were all correctly authenticated and, all except for the cheque, were completed using Mr P's genuine card and PIN. So, it says Mr P must have completed these himself or given someone else his account access and the authority to do so on his behalf. It also says the cheque was paid into the account of a known payee, and they had no real concerns about the validity of the cheque. So, it hasn't refunded any of these payments.

Our investigator considered this complaint and decided not to uphold it. T wasn't happy with this outcome, 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.

Before I set out my thoughts, I want to acknowledge that I have summarised this complaint briefly and, in less detail, than has been provided. I've focused on what I think is the heart of the matter. Please rest assured that while I may not comment on every point raised, I have considered it. I'm satisfied that I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this and reflect the fact that we are an informal service and a free alternative for consumers to the courts.

Generally speaking, HSBC is required to refund any unauthorised payments made from Mr P's account. Those rules are set out in the Payment Service Regulations 2017. T says these transactions were not made by Mr P, and he doesn't think Mr P consented to someone else making these on his behalf either. So, I have to give my view on whether I think Mr P did authorise the transactions or not.

Sadly, Mr P is no longer with us to tell us what happened here and whether he consented to all these transactions. And T says he discovered these transactions after Mr P had already

passed away, so he didn't have the chance to ask him either. So, we don't know what Mr P wanted at the time and what he did or did not consent to. In cases such as these, we have to consider the evidence available to come to a decision on what we think is more likely to have happened.

This complaint concerns over 60 ATM withdrawals, card payments and the issuing of a cheque from September 2023 onwards. I will deal with the ATM withdrawals and the card payments first.

The card payments were all completed with Mr P's genuine card and PIN. So, whoever completed these transactions must have had the actual card and knowledge of the PIN in order to do so. It is against the terms and conditions of the account to share your PIN with someone else, unless you are giving them consent to use it. T says Mr P went to live on a family member's driveway in September 2023 and they kept Mr P's card and PIN in their kitchen draw. So, he thinks they used this without Mr P's knowledge or consent. I have seen that Mr P wasn't in good health and suffered from memory loss – which explains why his PIN may have been written down somewhere. But based on the other evidence I've seen I think Mr P had given his PIN and card to this family member, and therefore his apparent authority to use it. I'll explain why.

I've listened to a call from 6 December 2023 between HSBC and Mr P. At this time the family member concerned was present and spoke to HSBC on his behalf, after Mr P gave his consent for them to do so. During this call they asked HSBC for a reminder of Mr P's PIN, but as he couldn't remember his telephone banking password, they were told they would have to come into the branch with ID to complete this request. I don't know if they did later go into branch to do this, but this call demonstrates that Mr P was happy for this family member to speak to the branch on his behalf and was helping him with his finances. He was calling to get a reminder of his PIN and had asked the family member to deal with the call on his behalf, so he consented to them learning his PIN.

I've read about Mr P's medical difficulties around the time, and I think it's reasonable to assume that he had asked the family member he was staying with to help him. He hadn't at any point after this reported his card as lost or stolen. So, I think he had given them his card and had allowed them to know his PIN, which by law means he has given them apparent authority to use it, until he takes practical steps to withdraw the consent (like cancelling his card or changing his PIN).

T has raised concerns about the amount of ATM withdrawals made during this time, but there is little other spending on this account for this entire period, and I think Mr P would've needed money to live. Prior to moving in September 2023 Mr P would often make cash withdrawals and while this later usage was higher, I don't think it's enough to say it is out of character for Mr P. I say this because Mr P often took out up to £150 from an ATM, and after September 2023 he was taking out withdrawals of £200.

T also made the comment that Mr P's earlier withdrawals were always done at the post office, and these later ATM withdrawals were done from different locations. T raised the fact that some ATM withdrawals were done while he was in hospital and he had never previously made card payments at supermarkets. But Mr P had moved home and, as I've outlined above, I think it's likely he had someone else helping him with his finances. So, I think it's possible someone else was making the withdrawals and card payments for him with his consent, and I don't think the change in location is enough to say these transactions were unauthorised.

The other part of this complaint is about the cheque that was paid to the family member he was living with for £10,000. T says this was not written by Mr P and the signature was forged

by the recipient. I have looked at the cheque concerned and the evidence supplied by both parties. T doesn't have any other evidence to support what he has said, only that the signatures are not an exact match. HSBC says its trained cheque processing team had no concerns about the validity of the cheque or the signature. It has also provided the copies of Mr P's signature it has on file. While I am not a handwriting expert, I can't say that the signatures are so different to cause any alarm. And as Mr P had made cheques out to this recipient in the past, HSBC had no concerns about this payment as this was to an established payee for the account.

Overall, I've not seen anything here which persuades me that the transactions were unauthorised. And Mr P didn't complain about any of these payments to HSBC while he was still with us. I know this outcome will be disappointing to Mr P, but I don't think HSBC has done anything wrong here. I say this because the genuine card and PIN were used to make the payments, and the evidence suggests Mr P had shared this with a family member – therefore giving them consent to use his account. Also, Mr P's account activity was not so out of character that I think HSBC should've flagged this as suspicious. And the cheque that T disputes was deemed as valid and being made to known payee, so also didn't raise any red flags. So, I don't think HSBC needs to do anything further.

My final decision

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

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 26 December 2025.

Sienna Mahboobani
Ombudsman