

The complaint

Mr T complains on behalf of his business, T that HSBC UK Bank Plc regularly held up T's payments from its business account for fraud/scam review. He said this damaged his business.

What happened

I sent the parties a provisional decision in August 2024, in which I set out the following background information to the complaint and my provisional findings, as follows:

'In August and September 2021 Mr T fell victim to a telephone deception scam in which the fraudsters impersonated HSBC, and Mr T said he lost about £8,000. The payment in question was made from T's account to a new payee.

Mr T said that since then every single transaction of T's gets stopped for a fraud check, including BACS transfers from T to Mr T's personal account. He said this causes T a great deal of difficulty and wasted time. Mr T complained about this to HSBC.

In its response on 25 July 2023, HSBC apologised to Mr T for the inconvenience of holding up T's payments for a fraud/scam review. HSBC said it has several fraud prevention policies and procedures in place to identify and prevent fraud on its customers, and its security checks are a necessity. HSBC said no error had been made, but paid Mr T £50 as a gesture of goodwill. HSBC said it had now updated its records in line with Mr T's feedback.

Mr T questioned why every new payee of T fails the fraud checks yet only the new payees which were fraudulent hadn't. He said the offer of £50 was insulting given the constant checks had cost him over £1,000 business per year as well as his time. HSBC said it usually verified the payment via a call to Mr T the same day or by text message. Mr T said this takes 2-3 hours on phone, but HSBC said the process normally takes about 15 minutes. HSBC said this could take longer on occasions as Mr T wasn't set up for Telephone Banking Security.

Mr T wasn't satisfied with this response and referred his complaint to our service. Our investigator didn't recommend the complaint be upheld. He said the payments had automatically flagged to HSBC as suspicious. And whilst HSBC has a duty to act on its customers' concerns it also has a responsibility to protect customers from the risk of financial harm from fraud. The investigator concluded that he couldn't say HSBC acted unfairly by intervening on payments as it is taking steps to protect the account when it has concerns.

Mr T disagreed with the investigator and requested an ombudsman review T's complaint. He said, he is looking to bring action against HSBC and added, 'clearly there is a question as the role of the ombudsman in the perpetration of financial crimes by the banks'. He said he requires an appropriate amount of compensation.

What I've provisionally decided – and why

I was sorry to learn about Mr T falling victim to a fraud and the subsequent difficulty he's faced in making payments from T's account. I have not considered whether or not HSBC should recompense T for the amount of its loss through fraud as this is not the subject of the complaint.

I can understand Mr T's frustration at the checks that HSBC has applied, and I have looked at the incidence of these from T's account statements over the last three years. Mr T commented that HSBC stopped virtually every transaction since the fraud but didn't stop the fraudulent ones which were to new beneficiaries and according to its system should have been stopped.

Mr T brought T's complaint in 2023 concerning transactions up to the end of that year. However, he since added (on 31 January 2024) that HSBC keep stopping transfers to himself for fraud. HSBC's comments relate to transactions cleared in 2024 and from this Mr T's wish to experience normal banking practices appears to have been achieved.

HSBC said the checks on T's payments were being triggered by its automated system as a result of enhanced protection following the scam on T. It said T's existing payees are not held for a fraud check due to transactions to them in the past and fraud and scams checks aren't required based on the transaction history to known beneficiaries. Mr T's question as to why the 'new payee' that was fraudulent was not checked is answered by the lack of fraudulent activity on the account up to that point. He may have missed the point that HSBC introduced the enhanced system of checks in response to the fraud on T. After the fraud, HSBC could see that enhanced checks were required to help prevent repetition.

It's frustrating to Mr T that new payees of T appear to be triggering a hold on payments. I can see that Mr T would like these holds to end but this is part of HSBC's approach to fraud prevention and new payees are relevant to the fraud that T suffered. HSBC is correct to say that this is a difficult balance to get right. The balance is between applying sufficient additional security to serve as a protective measure for the customer and HSBC, and not overly and unjustly hindering the customer's business.

I have looked for adverse effects of the checks on T to see if these were over and above what would be reasonable in T's circumstances. Mr T wants our service to come up with an offer of compensation for lost time, undue stress and upset to himself and his staff. Our investigator and I have explained to Mr T that the complaint has been brought on T's behalf and so it's the loss or inconvenience that T has suffered that must be considered, whereas a business cannot suffer distress or upset.

Mr T initially said HSBC's checks cost him in excess of £1,000 of business per year as well as his time. Since the enhanced checks followed on from the fraud and Mr T said previous transfers were successful, this would amount to around £3,000. In response to my recent questions, Mr T said he has lost about 16 clients at minimum of £250 per year due to the bank's actions. He said, 'to assume 10 years of these clients is reasonable - net loss £40,000'. Mr T said that fraud on T had caused 'a new loss of £15k which we still want the bank to reimburse'.

In terms of the effects on T, Mr T said that 'payments to every new payee are held for a check' with each taking two to three hours on the phone to resolve. He said texts relating to payments to T from HSBC have been deleted and this information would prove his case.

I have twice requested Mr T send evidence in support of T's losses as a direct consequence of HSBC's actions in checking payments to and from T. And to explain how the '3 - 4 texts relating to payments to [T] being held for fraud', 'proves our case'. I have asked Mr T to explain the great difference in the amounts of T's losses that he has provided, and to explain his comment, 'Fraud on account 6 new payees for amounts of £5k and £10k no stopped until we contacted bank. New loss of £15k which we still want the bank to reimburse.'

In response, Mr T said HSBC stopped virtually every transaction over a two to four year period including payments to himself. He said the only payments that weren't stopped were the fraudulent ones which were all to new beneficiaries and according to HSBC's system should have been stopped. Mr T said he had 'thrown the £40k figure in to try to bring this to

a conclusion', but would 'refrain from putting a value on whilst you consider the case and wait for your response in terms of how you value our time and business'.

Also in response to my questions, HSBC said the last time T's payments were held for a fraud check was in April 2024. HSBC said that T has made multiple payments to new payees since then and none of these have been held up. It said this means payment to new payees are not automatically stopped. Concerning Mr T's claim that payments to himself have been held, HSBC said, 'Multiple payments to Mr [T] were made this year and nothing has been flagged since February 2024'.

As to the time it takes HSBC to unblock a payment that it has held, HSBC said, 'Our fraud assessment process takes around 15 mins as we need to ask questions around purpose of payment, beneficiary details, some recent account activities, as well as provide scam/fraud warnings & education to ensure customer would not be a victim of fraud/scam again'.

I have seen the phone logs of calls between Mr T and HSBC and other communications and these show that HSBC just wanted Mr T to verify the payments and that he did so whilst expressing his great unhappiness at the checks and the advice to visit his branch. The text messages from HSBC are about held payments and appear to have been made when HSBC wasn't able to reach Mr T by phone. None of the contacts between the parties provide any evidence of a loss to T or that any detriment to T was derived by HSBC's enhanced security checks.

Mr T asks that we consider T's losses and arrive at a figure for appropriate compensation. He has not provided details or any evidence of losses as a consequence of HSBC's security checks. It is not for our service to make T's complaint on its behalf, it is for Mr T to evidence the complaint he is making. In order to give Mr T a further opportunity to do so I've issued this provisional decision, requesting that he quantify and evidence the loss T has suffered and show a causational link to the actions of HSBC. This would include how HSBC's actions caused T to lose clients and something to demonstrate this link.

Financial institutions are required by the regulator, the Financial Conduct Authority to put measures in place to identify and stop fraudulent activity wherever possible. This means that we expect HSBC to intervene if it has reason to believe T may be at risk of financial harm from fraud. HSBC said its detection system considers multiple different factors when flagging a payment. Specific details cannot be disclosed as it's part of the security measures that it cannot divulge.

I can see from what Mr T has said that the transactions held up by HSBC were genuine and I sympathise with him for this. However, the system HSBC uses is automatic, and it has a duty to protect its customers. From what I've seen so far, HSBC has followed its responsibility to protect customers from the risk of financial harm from fraud. Given this I can't say that HSBC has acted unfairly by intervening as it's taking steps to protect Mr T's account when it has concerns. For this reason and the lack of any evidence to support a loss to T from HSBC's actions or that those actions were unreasonable in the circumstances, as it stands I do not currently intend to uphold T's complaint.'

My provisional decision and the parties' responses

I provisionally decided not to uphold the complaint. I had found that HSBC had followed its responsibility to protect customers from the risk of financial harm from fraud and hadn't acted unfairly by intervening to protect T's account from further fraud. I hadn't seen any evidence of a loss to T from HSBC's actions.

HSBC said it had nothing further to add at this stage. Mr T didn't respond to the provisional 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.

Although I have received nothing further from the parties to this complaint in response to my provisional decision, I have looked again at the circumstances of his complaint. Having done so I remain of the view that the outcome is a fair and reasonable response to T's complaint.

I think it is worth bearing in mind that most banks don't manually monitor accounts and use automated systems to spot potential fraud. It's a great shame this didn't prevent fraud on T's account in 2021, but we would expect a bank to become more vigilant in response to a fraud on an account.

HSBC has considered transactions on T's account in terms of the potential for fraud and this has delayed some payments from T's account. I sympathise with Mr T for the frustration and delay this has caused his business in making payments. However, I think HSBC has acted in line with its regulatory responsibility to prevent fraud wherever possible.

From what I have seen of HSBC's actions on T's account I can't say that HSBC has acted unfairly by intervening on payments to obtain Mr T's verification before proceeding when it had concerns. In any event Mr T has not provided details or any evidence of losses as a consequence of HSBC's security checks. It follows from all of this that it would not be fair or reasonable for me to uphold T's complaint about HSBC.

I realise that Mr T will be disappointed by this outcome though I hope he appreciates the reasons why it had to be this way. By rejecting this decision all options remain open to him including the legal action he has said he has prepared as the only way to bring this to a satisfactory conclusion.

My final decision

For the reasons given here and in my provisional decision, this complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T on behalf of T to accept or reject my decision before 3 October 2024.

Andrew Fraser
Ombudsman