

The complaint

The estate of Mr S has complained that HSBC UK Bank plc failed to investigate Mr S being a victim of financial abuse.

What happened

Mr S died in April 2022. He was over 100 years old.

His estate complained to HSBC after discussing Mr S's finances in branch with HSBC. Two cheques, for £8,000 and £2,000, had been written shortly before Mr S's death. A member of the branch staff alerted the estate to potential abuse of elderly individuals.

The estate asked HSBC why they'd not pursued this issue. HSBC confirmed that the two cheques had been signed by Mr S so believed he'd authorised these himself and wouldn't be doing anything further.

The estate remained unhappy and brought the complaint to the ombudsman service.

Our investigator reviewed the evidence. She could see that the cheques were properly signed. She also noted that Mr S had added his signature to a statement that these two payments were in recompense to individuals who'd provided Mr S with friendship over the years. So she didn't feel HSBC should do anything further.

The estate feels HSBC is negligent in their duty to protect Mr S. They've asked an ombudsman to consider their complaint.

I completed a provisional decision on 25 October 2023. I confirmed I felt the cheques had been properly signed by Mr S and didn't feel that HSBC had missed an opportunity to intervene.

Mr S's estate confirmed they remained unhappy with this outcome. They highlighted the situation they found in Mr S's home where they didn't believe Mr S could ever have received anything in return for the regular payments he made. They were also concerned that these cheques had been given so close to the time Mr S died.

I now have all I need to complete my 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.

Having done so, I've reached the same outcome as I did in my provisional decision. I'll explain why I've reached the outcome I have.

I know the estate may not agree but in formal terms I don't think there's any dispute that Mr S made and authorised the cheque payments. These three cheques were made out to people who supposedly helped Mr S with cleaning and gardening. I've seen previous

cheques Mr S has written to the same individuals over a couple of years before he died.

I think it's likely that the first transaction for £600 was the normal monthly cheque Mr S gave those who were providing him with a service. I appreciate what the estate has told us about the condition of Mr S's home but overall they will understand that HSBC would never have been aware of this, nor is there any expectation on them around this aspect,

I've considered the evidence the estate has provided. This included an excerpt from Mr S's daybook. This includes the statement "*I request to give a cheque for £8,000 as a gift for friendship and help over the past 13 years*", followed by what I believe is Mr S's signature. I appreciate the main text isn't in Mr S's handwriting, but it is most likely his signature.

So as I've stated above, I believe Mr S authorised the two cheque transactions for £8,000 and £2,000 which are in dispute.

It's also accepted that HSBC has an obligation to follow Mr S's instructions. So in the first instance Mr S (or in this case his estate) is presumed liable for the payments. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that HSBC should:

- have been monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering, and the financing of terrorism.
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- in some circumstances, irrespective of the payment channel used, have taken additional steps or made additional checks before processing a payment, or in some cases declined to make a payment altogether, to help protect its customers from the possibility of financial harm.

However it's not straightforward to say whether Mr S fell victim to a scam or not. He may have willingly given a gift amounting to £10,000. The writing in his daybook would certainly indicate this.

But I can appreciate why his estate may not believe this was the case. I know the estate has confirmed various items within Mr S's possession were missing after his death and I can only appreciate the shock and upset this must have caused them.

So I've considered whether HSBC should have identified these two cheques as unusual and intervened.

However I can see by reviewing Mr S's account use that he wrote cheques on a regular basis. Specifically he wrote regular cheques to the two individuals who benefitted from the cheques for £8,000 and £2,000. So there would be no immediate cause for HSBC to think the cheques were out of character or made out to anyone that should cause any alarm.

I note that the amounts of these cheques were more than the normal £600 Mr S paid every month. However again I don't think this alone would have alerted HSBC. I say this as Mr S's

current account retained a healthy balance with more than half of what he'd had prior to these two cheques remaining. I believe this wouldn't immediately have caused any indication that HSBC should have taken further action.

I know the estate has wondered why HSBC didn't notice that the handwriting on one cheque differed to the other. Banks don't check individual cheques so I wouldn't have expected this to be picked up. In any case the requirement is for the signature to match the customer's mandate and I'm satisfied they did in this case.

But I've also considered what would have happened if HSBC had felt further action should be taken. At this stage, late March 2022, Mr S entered hospice care. I think it's most unlikely HSBC would have been able to discuss what happened with Mr S. And even if they had, he'd have possibly confirmed this was a gift as the daybook entry indicates.

At the most HSBC may have got the impression that Mr S had written two cheque payments he subsequently regretted. However there would be little chance of HSBC being able to stop the cheques by this stage as they would have been paid and the monies received.

So in light of the circumstances I'm not surprised that HSBC took no further action. I don't think it would be fair and reasonable to ask them to refund money to the estate.

My final decision

For the reasons given, my final decision is not to uphold the estate of Mr S's complaint against HSBC UK Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr S to accept or reject my decision before 26 December 2023.

Sandra Quinn
Ombudsman