

The complaint

Mr R complains that HSBC UK Bank Plc acted in a bullying and discriminatory way toward him when conducting its fraud prevention checks.

What happened

Mr R made a payment to an account he holds with a third-party business I will refer to as P. HSBC referred the payment to its fraud team.

Mr R objected to the fraud team's questions, saying that HSBC racially profiled and bullied him. Mr R complained to HSBC in May 2023 but says he didn't receive a response to his complaint. Mr R followed up with HSBC in September 2023 but again, says he did not receive a reply.

After Mr R complained to the Financial Ombudsman, HSBC said that this complaint had been made out of time under the rules that govern us. HSBC said it sent Mr R a final response on 11 May 2023. As he did not come to our service until late November 2023, more than six months had passed leaving his complaint out of time.

After Mr R showed that he had chased HSBC for an update in September 2023 without any response, HSBC agreed to the Financial Ombudsman considering his complaint.

Our investigator didn't uphold Mr R's complaint. He was satisfied that HSBC was entitled to conduct fraud prevention checks. Having listened to the call that Mr R had with HSBC, our investigator thought it had asked the same kinds of questions of Mr R that it would ask of any other customer.

As the call ended before the checks were completed, our investigator didn't think HSBC made a mistake when it didn't approve the payment. He also didn't think HSBC had treated Mr R unfairly or that had it discriminated against him

Mr R disagrees with the investigation outcome. He thinks that HSBC fabricated the final response letter of 11 May 2023 to pervert the course of justice.

Mr R says he is not complaining about HSBC conducting fraud prevention checks. But he considers the excessive questioning involved was racially profiling him and was intended to bully and harass him. Mr R points out that P is a recognised and legitimate business, so fraud prevention should not have been an issue. Mr R thinks HSBC's conduct towards him shows a pattern of discrimination. He also refers to an earlier complaint as evidence that HSBC is racially profiling him.

Mr R thinks that the letter of 11 May 2023 is subtly suggesting that HSBC wants him to change banks and he finds HSBC's £10 compensation payment humiliating.

As Mr R remains unhappy with our investigator's response to his comments about the outcome, the complaint has come to me to make 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.

I appreciate that I have summarised this complaint in less detail than the parties and that I have done so using my own words. The rules that govern our service allow me to take this approach. But this does not mean I have not considered everything the parties have given to us.

I am grateful to Mr R for clarifying that his complaint is not that HSBC conducted fraud checks in the first place, but rather the way that it spoke to him during the call. I have listened to the fraud call between Mr R and HSBC. I appreciate that Mr R found the line of questioning intrusive but HSBC must have systems in place to protect its customers from potential scams.

Although Mr R explained that he was transferring the money to an account in his own name with P, the beneficiary's account details were not verified. So, there was no way of confirming the payee details to make sure the payment was going to the correct beneficiary. This appears to be why HSBC asked Mr R how long he had held the account with P and if he had paperwork confirming the account was genuine.

Mr R believes he was subject to bullying and racial profiling by HSBC. The Equality Act 2010 prohibits several types of discrimination and the relevant characteristic here is race. While we take any allegation of racial profiling and bullying very seriously, it's a matter for the Courts to decide whether a business has acted unlawfully or not. Our role is to decide what's fair and reasonable in all the circumstances. In order to decide that however, we have to take a number of things into account including relevant law and what we consider to have been good industry practice at the time. So, although it's for the Courts to say whether or not HSBC has breached the Equality Act 2010, we are required to take this into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

While I can't comment specifically on whether or not I feel HSBC did discriminate against Mr R, I cannot see it asked him any questions that it might not ask of another customer. HSBC wanted to make sure the payment was genuine and that Mr R had not been coerced or tricked into making it. I think HSBC acted reasonably when it asked these questions.

HSBC said it had also identified two failed log-in attempts using Mr R's mobile device on 21 April 2023. Again, I understand Mr R was frustrated at being pressed for more information but he also said that he did not know about the failed attempts. So, I think it was fair for HSBC to ask further questions to make sure that Mr R's bank account had not been compromised in some way.

As the call ended before the checks were completed, I don't consider it was unfair for HSBC to stop the payment going through. The terms of Mr R's account with HSBC allow it to refuse to make a payment in certain circumstances – including where it cannot confirm the identity of the person the customer is paying or where there has been fraudulent activity.

I understand that one person's view of a behaviour will differ from another but I am not persuaded that HSBC bullied Mr R during the fraud call. The call handler remained calm and explained the reason for the checks.

Although Mr R has referred to an earlier complaint about HSBC stopping a payment for fraud checks, this looks to be the only other time that HSBC has flagged a payment for additional

checks since 2018. So, I don't have evidence to suggest that HSBC has carried out repeated checks which might suggest Mr R was being targeted in some way.

Mr R has raised concerns over HSBC's final response letter of 11 May 2023 which he says was never sent. He thinks that HSBC fabricated the letter after the event – particularly as HSBC did not refer to the final response when he asked for an update on his complaint in September 2023.

I accept that Mr R does not recall receiving HSBC's final response in May 2023 but I don't think this means HSBC did not send it. Although HSBC initially objected to the Financial Ombudsman considering Mr R's complaint – it then changed its mind. So, I don't think I need say more about Mr R's concerns that HSBC didn't send the final response back in May 2023.

Mr R is unhappy with the wording of HSBC's final response letter as he thinks HSBC is suggesting that he moves banks. This didn't form part of Mr R's original complaint so if he remains unhappy with the tone of the letter, Mr R would probably have to go back to HSBC first. However, I should say that the way in which a business handles complaints is not usually a regulated activity that we can consider complaints about. So, it's unlikely that the Financial Ombudsman could investigate a stand alone complaint by Mr R about the wording of the final response letter.

Based on the evidence I have seen and heard in this complaint, I am not persuaded that HSBC treated Mr R unfairly and I don't believe its line of questioning was racially motivated or bullying in nature. I appreciate Mr R is likely to disagree with me on this, but I hope it helps to know that someone impartial has looked into his complaint.

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 23 April 2024.

Gemma Bowen
Ombudsman