

The complaint

Mr C complains that HSBC UK Bank Plc (“HSBC”) won’t refund a disputed transaction made from his account.

What happened

In July 2019, Mr C’s HSBC account was debited by £323 which went to an online betting website. Mr C says that he didn’t make this transaction and that he believes someone at the betting website made the transaction without his knowledge.

Mr C says on the day of the transaction he had won a football bet, and when checking his online betting account later he noticed that the balance didn’t appear right. Mr C says he tried to take the funds out but couldn’t. So, he withdrew what he thought he’d won and gambled the rest of the funds, bringing his betting account balance back to the amount he thought it should have been. Mr C says he doesn’t live with anyone and no one else has access to his card or his login information for the online betting website.

Mr C says he contacted HSBC and asked them to stop the transaction from going through but was told this wasn’t possible. So, he raised a complaint with HSBC saying they should’ve stopped the payment and that the payment should’ve flagged as unusual and been prevented by HSBC.

HSBC looked into Mr C’s complaint, but declined to refund the transaction saying:

- the transaction wasn’t unusual activity on Mr C’s account, so the payment wouldn’t have flagged
- they are unable to raise a chargeback for transactions to betting sites

Mr C wasn’t happy with HSBC’s response, so he brought a complaint to our service.

Our investigator looked into his complaint and didn’t uphold it. They felt there had most likely been some confusion around Mr C’s betting account balance, but that Mr C had authorised the transaction. They also explained that Mr C had had the benefit of the funds through making additional bets on the site. And they didn’t feel the payment was so significantly higher than previous genuine payments, that it should’ve flagged to HSBC.

Mr C disagreed with the investigator’s opinion, saying he’d called HSBC while the transaction was in motion and asked them to stop the transaction. Also, that we should pass the details of his case over to the police as he believes the online betting site is guilty of unauthorised use of his personal account.

The investigator responded to Mr C and let him know that HSBC couldn’t stop the transaction when he called, as it had already been processed. Mr C remained dissatisfied with the investigator’s opinion, so the case was passed to me for review.

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.

Where there is a dispute about what happened, and the evidence is incomplete or contradictory, I reached my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence.

Having done so, my review of the evidence has led me to the same overall conclusions as the investigator previously set out and for much the same reasons.

Generally, HSBC can hold Mr C liable for the disputed transaction if the evidence suggests that it's more likely than not that he made or authorised it himself.

HSBC has provided evidence that Mr C's card details were used to authenticate the payment on the online betting site. But the regulations relevant to this case say that is not, on its own, enough to enable HSBC to hold him liable. So, I also need to think about whether the evidence suggests it's more likely than not that Mr C consented to the transaction being made.

The betting site has provided a statement of Mr C's account with them. This shows that Mr C opened an account with them approximately a month before the transaction he's disputing. And that the funds taken from Mr C's HSBC account of £323 were credited to the online betting account also held in Mr C's name. On the same day as this disputed transaction went through Mr C made a small deposit to his betting account of £10. But over the two days following this, he withdrew a total of £180 from his betting account which was credited back to his HSBC account. Reviewing the statements, I can see Mr C had used his betting account fairly regularly since he opened it, and all of the transactions on his betting account match corresponding transactions on his HSBC account.

Mr C has told us that he had a win and had withdrawn what he thought he'd won and gambled the rest of the funds, and I think it's highly likely that Mr C may've made the £323 payment in error. But regardless, I'm persuaded that the £323 was paid to Mr C's betting account. I think Mr C has had the benefit of these funds either through the withdrawals he made in the following days or through bets he made on the betting website. I haven't seen anything that suggests anyone else had access to or use of these funds, other than Mr C. And from what I've seen Mr C called HSBC after the transaction had been authorised, so they wouldn't have been able to "cancel" the transaction as the funds would've already been credited to his online betting account and were available for use.

I appreciate that Mr C is convinced that staff at the online betting site have taken the funds without his authorisation, but this complaint is against HSBC. And I can only look at HSBC's actions in this case and whether they have acted fairly in not refunding Mr C.

Mr C raised a point about the transaction being unusual, saying he felt it should've flagged with HSBC and not been processed. But the payment is quite small, and considering Mr C's previous account use, I wouldn't have expected it to flag with HSBC as particularly unusual or out of character.

I realise that Mr C is going to be very disappointed, but I think it's more likely than not that he authorised the payment of £323. Therefore, I can't fairly say that HSBC was wrong in holding Mr C liable for the payment and I won't be asking HSBC to refund him.

My final decision

My final decision is that I don't uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 February 2021.

Lisa Lowe
Ombudsman