

## **The complaint**

Miss C complains HSBC UK Bank Plc unfairly added her details to a fraud database.

## **What happened**

Miss C saw an advert for a way to make money quick. Miss C contacted someone on social media and was told she'd be sending money from her account to crypto-currency trading sites.

Miss C says she was assured this was legal. Miss C had several large payments credited to her account and she forwarded this money to a crypto-currency trading site.

HSBC then received messages from the sending banks to say the payments were fraudulent. HSBC spoke to Miss C, she explained she'd been expecting the payments and had been told to move the money on. Miss C said she knew the person sending the money.

HSBC wasn't satisfied with this answer, so it closed Miss C's account and loaded her details to a fraud database.

Miss C tried to contact the person she'd been dealing with on social media, but they blocked her. Miss C then found she couldn't open a new account.

Miss C went direct to the fraud database company and found out her details had been added. Miss C then complained to HSBC.

Miss C explained she'd been naïve and struggling financially and felt she'd been taken advantage of by scammers. Miss C asked HSBC to remove her details from the fraud database so she could get a new account.

HSBC responded to say it didn't feel it had done anything wrong. Miss C had received fraudulent payments into her account so it wouldn't be removing her details.

Unhappy with this answer, Miss C brought her complaint to this service. An investigator looked into things and felt Miss C's complaint should be upheld.

The investigator thought Miss C hadn't been complicit in the fraud. Because of this, Miss C should be considered a money mule. The fraud database's rules say money mules shouldn't have their details added. The investigator thought HSBC should remove Miss C's details.

HSBC said it had enough evidence to say Miss C wasn't a victim, so it wouldn't be removing her details from the database. HSBC asked for an ombudsman to decide things.

## **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 evidence is incomplete, or in dispute, I can decide things on the balance of probabilities. I need to look at what I think is more likely in the circumstances.

There's no dispute fraudulent payments were made to Miss C's account. And there's no dispute Miss C forwarded these payments to a crypto-currency trading site.

But this alone isn't enough to load Miss C's details to a fraud database. HSBC has to have evidence Miss C was aware the payments were, or were likely to be, illegitimate.

Miss C explained to the investigator she thought what she was doing was a legal way to make money. Miss C also said she'd asked the person she contacted on social media if this was legal and they'd said it was.

I wouldn't necessarily expect someone looking to make fraudulent payments through an account to tell Miss C this. But, in the circumstances of Miss C's complaint, I also wouldn't necessarily expect Miss C to push further.

Miss C was quite young at the time this happened and experiencing some financial difficulties. Miss C saw a way to make quick money in what appeared to be a legal way, and this could be a solution to the problems she was having at the time.

I think Miss C was in quite a vulnerable place. And, because of that, she possibly didn't ask as many questions as she wishes, in hindsight, she had. But not asking questions is very different from knowing the payments were illegitimate.

I don't believe Miss C knew, or should have known, these payments were illegitimate. And I don't believe Miss C was complicit in the fraudulent activity.

Miss C doesn't have any of the messages she exchanged with the person she met on social media. Miss C has explained she's since been blocked by this person. My understanding is once you've been blocked it's not possible to see previous messages.

So although Miss C doesn't have any proof of the messages, I'm persuaded by her testimony. I believe Miss C is an innocent victim of this scam and should be considered a money mule.

And I think Miss C has been consistent in what she told HSBC and this service. I realise HSBC doesn't believe Miss C has been consistent, but I do.

HSBC has said Miss C was inconsistent because she said she knew the person sending the money. I think Miss C did know this person, they'd exchanged messages on social media. This might not be the same as personally knowing someone, but I don't think Miss C was wrong to say she knew the person sending the money.

And, in any event, an inconsistent story alone isn't enough to load Miss C to a fraud database.

### **Putting things right**

Because I don't think Miss C was complicit in this fraud, I don't think it's fair for HSBC to continue to keep her details on the fraud database.

**My final decision**

My final decision is I uphold this complaint. HSBC UK Bank Plc should remove Miss C's details from any fraud databases it's loaded her to.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 18 April 2022.

Chris Russ

**Ombudsman**