

## **The complaint**

Ms K complains that HSBC UK Bank Plc won't refund money she lost when she fell victim to a scam.

## **What happened**

In February 2019, Ms K was contacted by someone claiming to be from HMRC, but it turned out this person was a scammer. Ms K says the caller told her that criminal proceedings were going to be commenced against her, as following tax audits, she was being charged with tax fraud, theft by deception and violation of HMRC and that she had unpaid taxes of £4,898. She was told that papers were going to be lodged at court by the end of the day.

Ms K has said the caller sounded very professional, used a lot of technical language and their tone was threatening and stern. Ms K said she told the caller that this was the first she had heard of this and was told other attempts had been made to contact her, but that they hadn't been able to get through to her number.

Ms K has said she felt panicked by what she was told and how this had escalated into criminal charges. She says she was pleading with the caller to keep this a civil matter. The caller told Ms K he didn't have the authority to make this decision, so he said he would transfer her to somebody 'higher'. Ms K has said at this point she was shaking, traumatised and hyper ventilating. She's explained that due to her profession, if criminal charges were brought against her, it would be very serious.

The second caller went through all of the criminal charges with Ms K. He told her that as she had a clean record with HMRC and because of her willingness to pay, he would allow this to be settled if she paid in full. He said another condition of allowing this would be that Ms K would need to attend a HMRC interview to speak with an accountant, and that for the next five years an HMRC accountant would be appointed to oversee her tax affairs. Ms K arranged to attend an HMRC interview on 9 February 2019 and was provided details of the address this would be held at.

Ms K has said that she believed she may have owed some taxes, as she had written to her accountant just a couple of weeks before, in January, asking if she had any tax to pay by the end of the month. She hadn't heard back from her accountant, but when she received the call from the scammers, as it coincided with her contacting her accountant, she assumed she must have tax to pay.

Ms K was told that the payment couldn't be made by credit card, as HMRC had a duty not to put people further in debt. She was told there was a black mark against her name with HMRC, which may cause problems for her to make a payment to governmental bodies. So when making the payment, the caller told Ms K that it's best not to mention that the transfer was being made to HMRC. Ms K has said she just wanted the legal proceedings against her to stop and believing everything to be genuine, went ahead and made the following payments via online banking;

- £1,950 6/2/2019 @ 11:43am

- £3,000 6/2/2019 @ 11:48am

The payments Ms K attempted to make were flagged by HSBC's fraud detection team who contacted Ms K to discuss the payments. During an initial call, HSBC informed Ms K that they needed verbal declaration for the payments and asked her how she'd received the details for the payments. Ms K told the bank that the payments were for a friend, who had lent her some money and she was paying him back. HSBC also asked Ms K if there would be any more payments going to this beneficiary and she replied, "no not at all".

Following these payments Ms K continued to speak to the scammers. They told her that the Court had already paid the fees of £5,000 and the legal action was now going ahead, regardless of the fact that she had paid the amount she owed in full. Ms K has said this panicked her further. The caller told Ms K that he was trying to tell the Court, on her behalf, that she was being compliant in paying the full tax amount. She was told that unless the Court fees, of £5,000 were refunded, the proceedings would be lodged. But the caller told Ms K that the best thing to do, would be to pay the £5,000, as this would then be refunded to her when she attended the interview that had been arranged. Ms K went ahead and made the following payment, to the same payee details as the previous two payments;

- £5,000 6/2/2019 @ 12:56pm

Shortly after making the payment Ms K called HSBC to ask if the payment for £5,000 had reached the account she had sent it to. HSBC told her that the £5,000 had gone through, but that there were fraud checks on the previous two payments (for £1,950 and £3,000). The HSBC agent also asked Ms K why she didn't send all of the money in one go, when it was going to the same account. Ms K told the agent she wasn't sure the amount would go through in a big amount, so she separated them into smaller amounts. The agent told Ms K that her daily mobile banking transfer limit was £25,000, and that as she had confirmed the payments as genuine, she could now release them.

The agent asked Ms K if anybody had asked her to make the payments and then noticed that Ms K had already called in earlier, about the first two payments. At which point she again confirmed that the payments had been released.

Around an hour later, HSBC's fraud department contacted Ms K explaining that it wanted to discuss her recent banking activity. The HSBC agent asked Ms K if she'd authorised the three transactions and what was the purpose of the payments. She confirmed she had authorised the payments and told HSBC she was lending money to a friend. The agent asked Ms K if she knew the friend personally and if she had met them, to which Ms K confirms she had. The agent said that was fine but that they do see a lot of fraud these days where customers are contacted by a third party. Ms K interjected confirming that she appreciated the call. The agent went on to ask how Ms K got the account details and she confirmed the payment details were given to her personally.

Following this, the scammer directed Ms K to HMRC's webpage and provided her with a long reference number and PIN number that she should input, she was told this would enable her to see Court papers and documents for her interview with the HMRC accountant. But when she tried to gain access, it wouldn't let her enter the PIN. Ms K was told by the scammer that they couldn't understand why that was happening, so they would need to go back and liaise with the court department on Ms K's behalf. The scammer came back to Ms K and told her that due to there being a delay between the payments she had made, the filing of papers and proceedings would still go ahead.

Ms K said she asked how this could be the case and she was told that if one 'full' payment for £9,900 was paid this would satisfy the system, but as things stood proceedings would go

ahead if the payment wasn't received by 5pm. Ms K has said at this point she had been on the phone for around five hours and wasn't thinking clearly, worrying about the deadline being missed. The caller suggested that Ms K go to her nearest branch to make the payment.

As instructed, Ms K attended the nearest HSBC branch and attempted to make a payment for £9,900 over the counter, to the same payee she had made the previous three payments to, but the payment didn't go through. Ms K has said she recalls this was at about 3:30pm and she told the branch staff that the payment was urgent and had to be with the recipient by 5:00pm. She's said the branch staff suggested that Ms K transfer the money from her current account to her savings account and pay from there – but this didn't work as Ms K's savings account was no longer in use.

At this point Ms K has said she was in a complete panic and she spoke to the scammer again who told her to calm down, Ms K recalls that she was pacing up and down in the branch. The scammer provided Ms K with alternative account details for where the payment could be made to, which he told Ms K was for another HMRC accountant. Ms K has said she went to make the payment through the machines inside the branch – but before doing so had to line up so the bank staff could enter the new payee details into the system. Ms K asked the branch staff for help putting the payment through and went ahead and made the following payment;

- £9,900 6/2/2019 @ 3:24pm

Communications between Ms K and the scammer continued, and she was told that a further payment, for £4,900 was required and that she should contact HSBC to make sure there were no delays with the payment. As a result, Ms K called HSBC but was told her account was suspended and she would need to attend her branch.

Ms K has said she visited the branch the following day and was told that the system had highlighted suspicious activity. She provided ID, by way of her passport and was told that her account should now be active. But when she tried to log in to her online banking it remained suspended. Ms K has said she called HSBC again on 8 February 2019 and was told that she would need to go back to the branch, as the person she'd spoken to the previous day hadn't followed the correct procedure and should have contacted the fraud department. Ms K attended the branch again, where she says she was questioned about the payments she had made. Ms K said she was still in a state of fear, as she had been told not to say who the payments were actually going to. HSBC didn't allow the payment for £4,900 to go through due to the concerns it had over the payment.

Ms K called the scammer and was told to call back in 20 minutes, but when she tried to call back the number was permanently engaged. Ms K then attended the address she had been given for the HMRC interview she had arranged for 9 February 2019. It was at this point, when it came to light there was no interview, that she realised she had been the victim of a scam.

Ms K raised the matter with HSBC on 9 February 2019. It tried to recover the funds from the receiving bank, but no funds remained. HSBC looked into Ms K's complaint and issued its final response on 4 September 2019, not upholding her complaint. In summary it said, its fraud detection systems had picked up the payments and Ms K confirmed she was paying a friend, for the repayment of funds she had borrowed, it added that the final payment, for £4,900 was stopped.

HSBC said that due to the time that had passed it had been unable to review the situation with the branch member of staff (regarding the payment for £9,900), but it says the branch

would not have set the payment up if they had concerns regarding the request. It also said it had no record of an unsuccessful attempt to transfer £9,900. It says when Ms K visited the branch again on 8 February 2019, it was not made aware the scammer had claimed to be from HMRC.

Overall, it said the payments were made in line with Ms K's instructions and these payments don't offer any protection. It said it was unable to recover any funds and that it would not provide a refund.

Unhappy with HSBC's response Ms K then brought her complaint to our service and one of our investigator's looked into things. He thought the complaint should be upheld and that HSBC should refund the money Ms K had lost, along with interest. He said he thought HSBC did the right thing in trying to verify the transactions and he acknowledged Ms K had given it incorrect information. But it was our investigators view that HSBC didn't go far enough in explaining the types of scams and warning Ms K that institutions wouldn't ask for payments over the phone in such a manner. In summary, he thought had HSBC taken the opportunity to take these steps at the time of the transfers, Ms K would have become aware she was being scammed and wouldn't have gone ahead with the payments.

HSBC disagreed with our investigator's view, in summary it said;

- There was no explanation as to why Ms K thought she owed HMRC money, or what due diligence checks she made to try and verify who she was speaking with prior to making the payments.
- There was no explanation as to why Ms K was told to pay individuals, rather than to HMRC directly.
- It considered, due to her profession, that Ms K was a sophisticated individual, who was conversant with how HMRC operates.
- Ms K was coached by the scammers, so it doesn't consider it can be supported that had scams been explained to her, when she spoke with HSBC, it would have broken the spell.
- Its agent would not have been aware Ms K was being asked to make a payment by an institution and Ms K had interjected when one of its agents started to warn her about calls from third parties.
- It didn't consider it could be properly concluded that even if it had further questioned the customer and discussed scams in more detail, that this would have made a difference.
- There was also no consideration as to whether there was contributory negligence on Ms K's part.

As agreement couldn't be reached the complaint has now been passed to me for a decision. On 16 February 2022, I issued a provisional decision, where I explained why I intended to uphold this complaint in part.

In my provisional decision, I said;

*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'm minded to reach a different outcome to our investigator and when considering all of the circumstances, while I think HSBC could have done more than it did, I don't think it would be fair or reasonable for me to order it to refund Ms K all of the money she lost. I'll explain why.*

*In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards;*

codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

*In broad terms, the starting position in law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case. But that is not the end of the story and taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider HSBC should fairly and reasonably:*

- *Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.*
- *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 (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.*
- *In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.*

*This means that, particularly with the increase of sophisticated fraud and scams in recent years, there are circumstances where a bank should fairly and reasonably take additional steps, or make additional checks, before processing a payment, or in some cases decline to make a payment altogether, to help protect customers from the possibility of financial harm.*

*So, in this case, I need to decide whether HSBC acted fairly and reasonably in its dealings with Ms K, when she made the transfers and when she reported the fraud, or whether it should have done more than it did.*

*Ms K has accepted that she authorised the payment. Because of this, HSBC had an obligation to follow her instructions. But there are some situations in which it should reasonably have had a closer look at the circumstances surrounding the transfers - as I've explained, I consider that as a matter of good practice HSBC should've been on the lookout for unusual and out of character transactions.*

*Here I can see that the first two payments Ms K made did flag on HSBC's fraud detection systems, which meant she had to speak with HSBC before the payments were allowed to be progressed. So, I've thought carefully about whether intervention at this point went far enough. I've listened to the calls that HSBC had with Ms K when she made the first two payments (for £1,950 and £3,000). The agent asked Ms K what the payment is for, how she'd received the payment details and whether she knew who she was paying personally.*

*It is finely balanced as to whether HSBC, at this point, ought fairly and reasonably to have questioned Ms K further about the payments she was making, after all the payments appeared suspicious enough to HSBC, that they were picked up by its fraud detection systems. But having thought carefully about this, I think the questions HSBC asked at this point did go far enough and I'm not persuaded it missed an opportunity here to uncover the fraud, or to identify that Ms K may have been at risk of financial harm.*

*I say that as when considering the previous activity on Ms K's account, in the six months leading up to the scam, these payments were larger in value than she typically makes and*

*they were to a new payee. But I'm also mindful that they didn't clear a substantial amount of Ms K's balance, which can be the indicator of a scam and Ms K spoke plausibly about the reasons for the payments. So overall, on balance, I think the questions HSBC asked at this point were proportionate to the circumstances and, while it is finely balanced, when considering the individual circumstances of this case I don't think it missed an opportunity here to uncover the scam. So, I don't think it would be fair or reasonable for me to ask HSBC to refund these two payments.*

*I've gone on to consider carefully what happened when Ms K went on to make the next payment for £5,000. Having made the payment Ms K called HSBC to check whether the payment had reached the intended account. During this call the agent asked Ms K why she had made three payments, rather than one and they checked with Ms K that she hadn't been asked to make the payment. The agent confirmed that the payments could be released as Ms K had confirmed they were genuine.*

*But following this Ms K then received a call from HSBC's fraud team, explaining that it wanted to speak to Ms K about her recent banking activity. The agent asks Ms K if she'd authorised the three payments that had been made and what the purpose of the payments were. Ms K confirmed she had authorised them and that she was lending money to a friend. I am mindful that Ms K didn't tell the agent the real purpose of the payments. She'd been told not to and at that stage I accept Ms K believed the person who had called her from HMRC was genuine. But alongside this, I'm also mindful that it is widely recognised by firms like HSBC, that fraudsters often provide customers with a convincing reason to make a payment and that fraudsters often instruct customers not to discuss what has happened with the bank and to provide a cover story.*

*And in those circumstances as a matter of good practice it may be appropriate to challenge the customer further. It seems to me that during this call HSBC's fraud team ought reasonably to have identified there was a possibility that something untoward might be going on and taken additional steps. The consumer was making a third substantial payment to a new payee, in very quick succession and I'm persuaded, at this point, a clear pattern is emerging not at all typical of the usual activity on Ms K's account.*

*I'm also persuaded that when considering things in the round there are other red flags that ought to have caused HSBC's fraud team to be concerned that Ms K may have been at risk of financial harm. I say that as the reason she has given HSBC for the payment has changed, for the first two payments she told HSBC she was repaying money she had borrowed, but here she tells it she is lending money. Alongside this, when Ms K speaks to the first agent, she is asked whether further funds will be paid to this account, to which Ms K responds "no, not at all". So it would seem odd that having said that, there was then a further payment in quick succession which was of an increasing amount going to the same beneficiary.*

*I've thought carefully here about what HSBC has said, in that Ms K did interject when it seems its agent was going to go on to talk about fraud involving third parties. But given, Ms K would have no knowledge of what scams may look and feel like, unlike HSBC that do. I think there was enough going on that HSBC ought fairly and reasonably to have made additional checks at this point and to have probed further.*

*Whilst I accept there is a balance to be struck and there are limits to the depth of questioning a firm can pursue, HSBC could – and in my view ought fairly and reasonably – to have asked Ms K extra questions in this case, essentially to challenge the purpose of the payment and to ask for more detail, for example about why she was making further payments, when she had previously indicated she wasn't going to, why had the purpose of making the payments changed and I also think HSBC could have reasonably picked up on the urgency*

with which Ms K was trying to make these payments, which is another indicator of a potential scam.

I'm not satisfied Ms K was asked enough probing questions and I think HSBC had an opportunity to do more at this stage. I can't know for sure what would have happened had HSBC asked further questions, so I have to base my findings on the balance of probabilities, that is what is more likely than not to have happened. Having thought carefully about this, had it asked further questions, I think it is more likely than not that Ms K would have struggled with some of the details underpinning the cover story she had been given and either HSBC would have identified, or Ms K would have realised, she was in the process of being scammed. More likely, in the circumstances of this case, I think HSBC would have become more concerned, which I think is supported when it does later start to challenge Ms K more about a payment she is intending to make, leading it to blocking the payment and not allowing it to be processed.

On balance, at the point Ms K was making the third payment for £5,000, I think HSBC ought to have had serious concerns that she may be at risk of financial harm, so alongside asking probing questions I think it could fairly and reasonably have given Ms K some information about scams and what they typically looked and felt like. I'm mindful that HSBC wouldn't have known for sure what scam Ms K may have been falling victim to, but had it taken the time to discuss the most common types of scam, it may have helped Ms K to have pieced together what was happening.

Overall, I'm not persuaded that in this particular case HSBC was able to assure itself fraud likely wasn't taking place, and that Ms K wasn't at risk of financial harm, at the point she was making the payment for £5,000. I'm persuaded that had it probed further it's more likely than not it would have become clear that Ms K was falling victim to a scam, and I don't think she would have gone ahead to make this, or the payment for £9,900 that followed.

#### Should Ms K bear some responsibility for the loss?

I've thought about whether Ms K ought to bear some responsibility for her loss, considering her actions at the time of the scam. And I'm mindful HSBC has questioned why she thought she owed money to HMRC and that it considers, due to her profession, that she is a sophisticated individual, who was conversant with how HMRC operated.

I'm not persuaded that Ms K would have been more attuned to this type of scam, due to her profession. She's explained that she has had very limited interaction with HMRC on a professional level and never about HMRC scams. Fraudsters know that fear can often have a negative effect on a person's thought process. It can certainly make people take steps that, in the cold light of day, they might not otherwise take. And I'm persuaded that was the case here, given the concerns Ms K clearly had of the implications on her livelihood of legal action being taken against her.

Ms K has explained and provided evidence to show that the month before the scam she had written to her accountant asking if she had any tax to pay by the end of January 2019. She hadn't received a reply and so when she got the call from the scammer, she assumed that she did have tax to pay. I think the unfortunate timing of her having contacted her accountant so recently, made HMRC calling her not seem out of the blue.

Overall, I think a reasonable person, in the circumstance of facing the imminent threat of legal action for unpaid tax, might be similarly persuaded that the call was legitimate. Particularly bearing in mind the social engineering and pressure tactics in the call to make it more difficult for her to identify and reflect on any warning signs.

*In considering all of the circumstances of the case I don't find Ms K should bear any responsibility for the loss by way of contributory negligence. She was the victim of a sophisticated scam, where a considerable amount of pressure was applied to her to act quickly and I'm satisfied she was entirely duped by the scammers.*

### *Recovery*

*Finally, I've considered whether HSBC acted promptly and reasonably when the scam was reported. Ms K reported the scam to it on 9 February 2019. HSBC contacted the receiving bank and it confirmed no funds remained, and I've seen evidence that the funds at left the receiving bank on the same day that Ms K had made the payments. In the circumstances, I consider HSBC acted reasonably in attempting to recover the funds Ms K lost and didn't miss an opportunity to recover any funds.*

### *Putting things right*

*For the reasons explained above, I'm currently minded to ask HSBC UK Bank Plc to:*

- *Refund Ms K £14,900 (being the sum of the third and fourth payments she made to the fraudster)*
- *Pay 8% interest per year on that amount (less any tax properly deductible) from the date of transactions to the date of settlement.*

I invited further evidence and comments from both parties.

Ms K responded, disagreeing with my provisional decision. In summary she said that HSBC missed significant red flags. She said this because she considered even the initial payments were out of line with previous activity on the account. Ms K said that prior to making the payments, due to inactivity, she had to reactivate her online banking by calling HSBC and then, on the fraudsters instructions, she had to make multiple calls to HSBC's fraud department to check whether the payments had been made. Ms K says that HSBC should have linked the reactivation of her online account with the number of calls she had made to the fraud number.

Ms K has said whilst she sounded convincing on the phone, this was because she was being deceived by fraudsters who had placed her under psychological and financial pressure, because of the potential and serious effects on her professional career. Overall, she considers that HSBC could have done more than it did.

HSBC responded and it also disagreed with my provisional decision. In summary it said that on a professional level Ms K had experience of dealing with matters of fraud and HMRC and that she ought to have been able to spot that something wasn't right and should have practised caution before paying over significant funds. It added that it considered the threats the fraudster had made were implausible and Ms K, with her professional background, should have questioned why she was told the Court were paying fees, which are normally paid by litigants for Court's services. HSBC considers Ms K was in a unique position, when compared with a standard consumer, to realise this was a scam and it said she ought reasonably to have questioned what she was told.

HSBC added that there were other red flags that Ms K ought to have noticed, such as; it being highly implausible that unpaid taxes would be paid to an individual's account, paying over such a significant sum overall without verifying whether there was any tax liability and making further payments after not being able to access the website details she had been given.



HSBC said while it appreciated the comments that had been made about the calls Ms K had with it. Ms K had been dishonest when talking to it about the true reasons for the payments, which HSBC says clearly impeded its ability to give a more specific warning. It says that in any event, having decided to make these payments, it's very unlikely Ms K would have paid attention to such a warning in any event.

### **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'm very aware that in this final decision I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focussed on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

I'm sorry to hear that Ms K doesn't agree with my provisional findings. But in responding, I don't think she's given me any new information that would change my mind, so I see no reason to depart from the conclusions set out in my provisional decision.

I don't disagree with Ms K that her initial payments were out of line, when compared with the previous account activity. And it seems to me that HSBC did too, as the payments triggered a conversation with its staff, before allowing the payments to be progressed. Ms K has said she thinks HSBC ought to have done more and she has asked what distinguishes the first two payments (which I'm not ordering HSBC to refund), from the others.

As I've noted, HSBC has a duty to look to identify and help prevent transactions that could involve fraud or be the result of a scam. But I'm mindful that this is balanced against its obligation to process payments that it is instructed to make by its customers. And I recognise HSBC has a difficult balance to strike in how it configures its systems to detect unusual activity.

The first two payments Ms K made were flagged by HSBC's fraud detection systems and a conversation took place. And, for the reasons explained in my provisional decision, I'm persuaded that the HSBC agent asked proportionate questions regarding the payments. Ms K has explained that while she sounded convincing on the phone, during the calls where these payments were discussed, it was because of the pressure to make the payments and because of the potential and serious adverse effects on her professional career. But the answers Ms K gave to the questions HSBC asked were plausible and she spoke confidently. I don't consider the answers Ms K gave would fairly and reasonably have led HSBC to have concern that she may have been at risk of financial harm. And while I don't doubt the pressure the fraudster was applying to Ms K, I can't fairly say that was apparent to the HSBC staff, when Ms K was talking to them. So, overall I can't fairly or reasonably say HSBC has done anything wrong by allowing these first two payments to be made.

What I consider distinguishes the third payment, from the first two payments, is that at this point Ms K is making a third large payment, over a relatively short period of time, to a new payee, for ever increasing amounts. She is also making a payment to a payee, after telling HSBC that she wouldn't be sending any further funds to this payee and she gives a conflicting reason for making the payment. When considering this in the round, I'm persuaded that there is a clear pattern emerging here, that is not only untypical of how the account is run, but also carries certain hallmarks of how some scams can unfold – where

fraudsters will often trick their victims into paying ever increasing amounts, over short periods of time. Overall, I'm persuaded there is enough going on that I think it ought to have caused HSBC serious cause for concern that Ms K may have been at risk of financial harm.

I've explained in my provisional decision that I think at this point HSBC could and ought to have done more than it did, and had it of done, for reasons already explained in my provisional decision that I won't repeat here, it would have made the difference and prevented Ms K from losing the money from this payment, and I don't think she would have gone on to make the subsequent payment she went on to make in branch.

I've thought carefully about HSBC's representations that Ms K, due to her profession, was in a unique position, when compared with a standard consumer, to realise this was a scam and it said she ought reasonably to have questioned what she was told.

As I've explained, I don't consider that Ms K's individual circumstances were such that they made her unsusceptible to the circumstances of this scam. While historically Ms K may have had some exposure to fraud cases, she's told us that this hasn't been the case for many years, and she has said she has had limited direct interaction with HMRC on a professional level and never about HMRC scams. Importantly this scam focussed on Ms K's personal tax affairs and she's told us she was inexperienced in dealing with HMRC as a self-employed person.

HSBC has said that Ms K ought to have known it was implausible that unpaid taxes would be paid to an individual's account. It says she should bear some responsibility for paying over such a significant sum without verifying whether there was any tax liability and making further payments after not being able to gain access to the website details she had been given.

But, as I've explained, I'm mindful that shortly before the scam, Ms K had been in communication with her accountant and had asked whether she had any tax to pay. So I don't think it was unreasonable for her to think there may have been outstanding tax due when she was then contacted by fraudsters regarding her tax. I acknowledge that with the benefit of hindsight and the removal of the pressured environment, that was created here it's easier to identify elements of the scam that could be considered less believable. But, I can see why in the moment, and considering the immense pressure Ms K felt under to take immediate action, particularly given how she thought it may have serious implications with her profession, that Ms K took the steps she did.

Fraudsters know that fear can often have a negative effect on a person's thought process and it can be difficult for consumers to think clearly. The pressure that fraudsters apply can certainly make people take steps that, in the cold light of day, they might not otherwise take. On the balance of evidence, I'm not satisfied HSBC, in the specific circumstances of this case, has sufficiently considered this feature of the scam in deciding not to reimburse Ms K. Indeed, it seems to me that Ms K's profession and the fear she had of repercussions was one of the key factors in this scam being so successful and making Ms K act in the way she did.

While I understand why HSBC has raised the points it has. On balance, in all the circumstances of this case, I'm not persuaded Ms K's response to the fraudster's instructions and belief that she was dealing with HMRC was unreasonable.

Overall and in summary, I'm issuing a final decision upholding this complaint in part for the reasons I've explained here and in my provisional decision.

### **Putting things right**

For the reasons explained above, HSBC UK Bank Plc should now:

- Refund Ms K £14,900 (being the sum of the third and fourth payments she made to the fraudster)
- Pay 8% interest per year on that amount (less any tax properly deductible) from the date of transactions to the date of settlement.

### **My final decision**

My final decision is that I uphold Ms K's complaint against HSBC UK Bank Plc in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 21 April 2022.

Stephen Wise  
**Ombudsman**