

## **The complaint**

Mr M is unhappy HSBC UK Bank Plc won't refund money he lost as a result of a scam.

## **What happened**

The details of this case have been clearly set out by our investigator when he wrote to the bank upholding Mr M's complaint. As such, the facts are well-known to both parties, so I don't need to repeat them at length here. In summary:

- Mr M decided to purchase a new van using a popular online auction site
- The seller claimed to be working abroad, but said delivery would be arranged using the services of a well-known payment service provider
- Mr M received emails that appeared to come from the payment service provider setting out the terms of the agreement – including his apparent ability to return the vehicle and receive a refund if he wasn't satisfied with it
- He also received various identification documents from the seller – including a passport, driving license and official letter
- On 23 February 2021, he made a payment of £5,720 to a bank account based in another country. He was also charged £4 for making this payment
- Despite contacting the receiving bank soon afterwards, Mr M's funds have not been returned to him. He's felt frustrated with HSBC's efforts to recover his money
- HSBC said that the receiving bank refused to return his money and it was not responsible for his loss

One of our investigators looked into the complaint. They were of the view that HSBC should refund Mr M in full because:

- The transaction stood out as being suspicious and unusual against his normal spending; and
- An intervention by the bank would have prevented the loss; and
- Mr M acted reasonably in the circumstances

They also recommended HSBC pay £200 in compensation for its failure to safeguard his funds and the service he received after reporting the scam.

The investigator issued their findings on this matter on 2 March 2022 and asked HSBC to respond by 16 March 2022, but it asked for a further week extension until 23 March 2022. That deadline has passed and, over a month later, the bank has still failed to respond. As such, the case has been escalated to me for 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.

Our statutory rules provide – at DISP 3.5.8 to 3.5.15 of the *Financial Conduct Authority Handbook* – that we may give case-management directions and fix or extend deadlines; and that we may:

*...reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested;*

I've therefore concluded that, in the absence of a response from HSBC to the investigator's findings on 2 March 2022, it is fair and reasonable to proceed on the basis of the evidence we already have.

I think that, taking into account its obligations to protect customers from financial harm from fraud as well as what's fair and reasonable in the circumstances of this complaint, HSBC ought to have intervened before allowing the disputed payment to proceed. Although Mr M had a significant balance on his account, he hadn't made any payments (international or otherwise) of a greater value in the previous year and the only payments of a similar value were much lower risk direct debit payments, possibly to a card in his own name. Given this payment was an international payment and significantly larger than any others made in the last year, I think HSBC ought to have had concerns about it.

I'm satisfied that had HSBC intervened it would have been able to identify that Mr M was at risk of financial harm from fraud – as the circumstances had several hallmarks of this type of scam – including the fact Mr M was unable to see the car in person and the supposed use of an escrow service provided by a popular payment processor. So, the loss would have been prevented.

I don't think there should be any deduction from the award either – Mr M does seem to have taken steps to verify the identity of the seller and I can see why, as a layperson, he would have been convinced by the email correspondence he received from the fraudsters.

Finally, while the receiving bank ultimately wouldn't agree to return Mr M's money, I think that HSBC should pay additional compensation to reflect its failure to keep Mr M updated with its attempts to try and recover his money, which caused distress and inconvenience to him. I think £200 is a fair sum to reflect that.

## **My final decision**

For the reasons set out by the investigator and above, I've decided that Mr M ought reasonably to be refunded, I therefore direct HSBC UK Bank Plc to pay Mr M:

- the amount lost - £5,720, less any amount already recovered or refunded
- the payment charge of £4
- interest at the simple rate of 8% per year on those amounts (less any tax properly deductible) from the date of the transaction to the date of settlement
- £200 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 May 2022.

Rich Drury  
**Ombudsman**