

## The complaint

Mr S is unhappy that HSBC UK Bank Plc won't refund payments he made as a result of scam.

## What happened

- Mr S found a classic car advertised online. Following communications with the seller, he made two payments in branch – the first for £15,000 and the second for £2,936.72.
- HSBC's records indicate its staff had a conversation with Mr S about the payments in branch, but no warning was given as it didn't think it was a scam.
- When Mr S didn't get the car, he contacted HSBC to report he'd been the victim of a scam. It declined to refund him, so he brought the matter to our service to look into.
- In April 2023, I sent both sides my provisional thoughts on why I considered Mr S's complaint should be upheld. Having now received a response from both sides, I'm able to reach 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.

Having done so, I've upheld Mr S's complaint for these reasons:

- Although it's accepted Mr S was the victim of a scam, it's not disputed he made these payments. So the starting position, in line with the Payment Services Regulations 2017, is that he's liable for them.
- I've considered whether HSBC could've reasonably prevented his losses, given its obligations to look out for unusual or otherwise suspicious payments that might suggest he's at risk of fraud.
- The evidence suggests branch staff questioned Mr S when he made the first disputed payment. So the key consideration isn't whether HSBC ought to have identified the payments as unusual – it did that. Instead, it's whether its intervention was adequate in the circumstances.
- HSBC's records of the interaction state no warning was given – the notes refer to him purchasing a car as and the emails and invoice they'd seen. They suggest that follow up questions were asked – and HSBC has provided guidance on the types of questions it uses in branch
- But the records don't tell me exactly what questions were asked or how Mr S answered them. And, having reviewed the guidance, I think that had these have been

used as a starting for its conversation, HSBC's staff ought to have been concerned with the circumstances. In saying that, I've noted:

- Mr S didn't know the seller or the shipping company and there weren't reviews for either of them.
  - He hadn't seen the car but he was being asked to transfer the whole amount by bank transfer.
  - He'd been told that the shipping company would be holding this amount until he'd seen the car, a common tactic we hear with vehicle scams to give someone a false sense of security.
  - Mr S was told the seller's uncle had passed away and that's why the price was discounted. Again, this is a familiar story with scams to explain why the car was reduced.
- It follows that I think HSBC was mistaken to be taken in by the emails and the invoice. While I accept it's impractical and unreasonable to expect staff to ask endless questions to detect fraud, I think there was enough causes for concern here that adequate questioning would've revealed. Afterall, there's nothing to suggest Mr S wouldn't have been truthful or forthcoming with information – indeed, I note he didn't appear to have been coached by the fraudster on what to say to bank staff, as we see in some scams.
  - So, in the circumstances, I think there was a missed opportunity to warn Mr S and to suggest to him how he could be more confident the seller was legitimate. For example, by checking reviews, reverse image searches, asking to pay by a more secure method like a credit card or sending only a deposit first. I note this is in line with the warning and education that Mr S was given when he reported the scam.
  - Had this have happened, I think it's likely he would've heeded HSBC's advice and that the scam would've ultimately unravelled. I note he'd banked with HSBC for many years and gone in to branch to make the payments, so it seems he trusted their opinion. This was also a lot of money to lose, so I don't think he would've gone ahead if he been given a reason to doubts its legitimacy.
  - Taking this all into account, I'm persuaded that HSBC's failure to provide Mr S with an adequate warning led to his losses. So I think it should put things right, by refunding the fraudulent transactions alongside 8% simple interest per year to compensate him for the time he's been out of pocket.
  - I've considered whether Mr S ought to bear some responsibility for what happened. But he wasn't knowledgeable on vehicle scams, as I'd have expected HSBC to be. And from an ordinary person's perspective, I can see how he was taken in by the paperwork and the supposedly secure way of paying. It also doesn't seem the price was simply too good to be true, and he was given a reason for the discount. And it seems Mr S did carry out some checks on the vehicle. Taking this all into account, I don't think Mr S should share the blame here. So I've not made a deduction for contributory negligence.

### **My final decision**

For the reasons I've explained, I uphold Mr S's complaint. HSBC UK Bank Plc must:

- Pay Mr S the total of the disputed payments, less any amount recovered or already refunded. I understand this to be £17,936.72.
- Pay 8% simple interest per year on this amount, accruing from the dates of payment to the date of settlement (less any tax lawfully deductible).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 31 May 2023.

Emma Szkolar  
**Ombudsman**