

## The complaint

Mr N has complained that HSBC UK Bank Plc has unreasonably and unfairly refused to refund him £4,000 which was transferred out of his bank account on 3 June 2022 when his phone was stolen when he was abroad. Mr N states he didn't authorise the two transactions one of £500 and the other of £3,500 to payees he didn't recognise.

## What happened

Mr N was abroad and out with some friends. He said his phone was stolen and someone texted or messaged one of his friends to explain how he would get his phone. That resulted in varying messages for Mr N to travel about the area in order to obtain his phone. Sadly, his phone was not recovered. Then Mr N found out two payments to payees he didn't recognise had been made from his account. So, he asked HSBC to refund this.

HSBC said that due to the multiple levels of security built into the mobile banking log on process, it was unlikely the security credentials would be known by anyone without Mr N's knowledge. Therefore, it felt entitled to rely on the authorisation provided to transfer the funds and so could not provide any refund.

So, Mr N brought his complaint to us. The investigator was of the view that his complaint shouldn't be upheld. He said that logins to Mr N's mobile phone were authorised by Face ID and to set that up some would have had to log into Mr N's mobile banking app using the passcode and enable biometrics. And as Mr N said his passwords weren't written down or stored anywhere, he felt the passcode must have been known to the party logging in to HSBC's banking app. Therefore, it's most likely Mr N authorised the disputed transactions himself or allowed someone else to do so.

Mr N didn't agree as he said he had never used Face ID. He also said the details to who the payments were made are known but HSBC never investigated them. He also said the passcode for the banking app was very similar to that to access his phone too. And why wasn't he informed such large amounts were being transferred from his account. So, Mr N's complaint was passed to me to decide.

I issued a provisional decision on 24 February and I said the following:

*'First, I do accept what HSBC has said about all the proper security processes being used to authenticate the logins and payments. However, I don't consider this is sufficient, in itself, to show Mr N authorised the payments.*

*I consider the evidence is clear that Mr N's phone was stolen as he has provided evidence of the varying texts messages sent to his friends by the thief or their associates showing he was being sent on a wild goose chase of the area where he was abroad to buy his phone back. Mr N was also clear that he was in public spaces that day with lots of people about and he was using his phone to take pictures as he was abroad.*

*I consider it was possible that Mr N's phone when stolen might not have locked itself again, or that he was observed entering his passcode to open his phone. Mr N has said his passcode to access his phone and to access his banking for HSBC account were similar. I do consider that it was unwise of Mr N to have chosen such a similar passcode, but I don't consider it reaches the standard of gross negligence required to show he was at fault. There is a limit in my view of how many passcodes people are expected to remember for all the devices and apps now required without noting them down. So, I don't necessarily consider Mr N here has wilfully disregarded any obvious risk.*

*The disputed transactions were achieved via Face ID. Mr N is adamant he has never used Face ID at all. The log in details around 3 June 2022 (the date of the disputed transactions) show that Mr N's account was logged in to via a pin from 31 March to 3 June 2022 which matches what Mr N has told us. On one screenshot it shows that Face ID was used seven times to access his account on 3 June 2022 and in the second screenshot Mr N's account was accessed around 19 times again all on 3 June 2022, again using Face ID. Sadly, there appears to be no way of knowing which actual face was used for this ID, but it seems most likely to me it was not Mr N. And obviously once a person is 'safely' in an app such security details are easily changed too. The design of Mr N's mobile phone or indeed the HSBC banking app has of course nothing to do with Mr N whatsoever.*

*That in turn shows it's most likely it was not Mr N who authorised the disputed transactions which were done also on 3 June 2022.*

*It also appears from the evidence produced by HSBC that an internal transfer from Mr N's savings account also available on the app to what I assume is his current of £2,000. And HSBC clearly knows where the disputed transactions of £500 and then £3,500 went. It believes we should contact those institutions ourselves. It also appears HSBC stopped a further £500 transaction. However, there is no information as to why it did that. But it does beg the question if that transfer was stopped then why weren't the disputed transactions also. So, taking all of the above into consideration, I'm not of the view that it's fair and reasonable for HSBC to refuse to refund these disputed transactions to Mr N with interest as I am satisfied they were not authorised by Mr N. Mr N also complained that he has no access to his account which should also be reviewed and sorted out with access should Mr N still require it being permitted.*

*This has caused Mr N considerable distress and inconvenience, he was left in a foreign country without access to his account plus he was put to significant further trouble in gathering together all the screenshots and messages between his friends and the thief. Therefore, I consider HSBC should also pay compensation in the sum of £400.'*

Mr N accepted my provisional decision. HSBC didn't respond.

### **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 again, I remain of the view that I am upholding this complaint.

Since Mr N agreed and HSBC didn't proffer any further information, there is no reason for me for to change my mind from the reasoning detailed above in my provisional decision.

### **My final decision**

So, for these reasons, it's my final decision that I uphold this complaint. I now require HSBC UK Bank Plc to do the following:

- Refund Mr N the amount of £4,000.
- Add interest of 8% simple from the date of the transactions to the date to the date of its refund. If income tax is to be deducted from the interest, appropriate documentation should be provided to Mr N for HMRC purposes.
- Pay Mr N the sum of £400 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 7 April 2023.

Rona Doyle  
**Ombudsman**