

## **The complaint**

Mr M has complained that HSBC UK Bank Plc are holding him liable for debts which he says were the result of ID theft.

## **What happened**

This complaint surrounds an HSBC overdraft and credit card which were taken out over the internet in Mr M's name in early 2022. Both accounts quickly ran up large balances through cash withdrawals and purchases.

A series of accounts with other businesses were also opened at about the same time and used in a similar way. Those other companies looked into things and confirmed that those accounts were fraudulent.

Mr M explained that shortly before this incident, he'd lost his phone, which was not protected and which contained a lot of his personal information. His post went to an external mailbox. He suggested that someone stole his identity.

HSBC had concerns of their own that the accounts were the result of ID theft. But they say that Mr M came to branch with ID and confirmed they were his accounts, so they're holding him liable for them. Mr M says he came into branch, but told the branch staff these were *not* his accounts.

Our investigator looked into things independently and upheld the complaint. They found that there was substantial evidence strongly indicating that Mr M was the victim of ID theft, and no hard evidence of exactly what was said in branch. They also noted that Mr M had difficulty communicating. So they thought it was more likely than not that there was a misunderstanding, and that Mr M did not confirm that these accounts were his.

HSBC didn't agree, so the complaint's been passed to me to decide.

## **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.

Broadly speaking, the onus is on HSBC to show that they are entitled to hold Mr M liable for these debts.

There is very substantial evidence that Mr M did not take out these accounts. For example:

- The phone number provided does not match Mr M's genuine one and HSBC were unable to connect to it

- The email address provided does not match Mr M's genuine one and was set up less than a day before the application
- The details provided on the application matched up to data on the national fraud database
- Another business registered on the database that Mr M was the victim of fraud
- The IP address used matched up with other unrelated applications
- The employer details were incorrect
- The address history was incorrect
- There is a clear point of compromise for how the ID theft may have taken place
- The way the accounts were used, such as being rapidly drained, is consistent with how I'd expect them to be used by a fraudster
- The only credit paid into the current account, aside from refunds, was the £5 provided at open, from a third party who does not seem to bear a relation to Mr M
- Multiple suspected fraudsters called to access the account and were picked up by HSBC's alert system
- A number of other accounts were opened with other businesses at about the same time, using shared details, and were operated in a similar way. Those other accounts have been confirmed as being fraudulent.

On the other hand, there is not much to support the possibility that Mr M did take out these accounts. HSBC are mainly relying on their assertion that Mr M confirmed they were his in branch. But there is no hard evidence of what was said in branch, such as a recording. Mr M has had difficulties in communicating and in understanding what's gone on. And the branch notes were not detailed. It is plausible that there was a misunderstanding or that the notes of the conversation were mis-recorded. And given all the evidence that these accounts were fraudulent, as well as the balance of probabilities I cannot reasonably conclude that things definitely happened as HSBC say they did. I think it's much more likely that these accounts were taken out without Mr M's consent, and that there was some kind of miscommunication in branch.

Taking into account everything that's been said and provided, I'm not persuaded that Mr M took out these accounts. And I don't think HSBC have sufficiently evidenced that he did – indeed, the bulk of the evidence points to the accounts being fraudulent. So I don't think HSBC can hold Mr M liable for them.

I've also considered whether HSBC should pay Mr M compensation for the trouble and upset he was caused. But like our investigator, I can understand why HSBC declined his claim at first, given what they thought had been said in branch. And it was the fraudster who caused the bulk of Mr M's distress, rather than HSBC. So I don't make a further award for that.

### **Putting things right**

I direct HSBC UK Bank Plc to:

- Take these accounts out of Mr M's name and disassociate him from them;
- Cease pursuing Mr M for the disputed accounts – which includes instructing any agents to cease as well; and-
- Remove any record of these accounts from Mr M's credit file.

**My final decision**

For the reasons I've explained, I uphold Mr M's complaint, and direct HSBC UK Bank Plc to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 July 2023.

Adam Charles  
**Ombudsman**