

The complaint

Mrs E complains HSBC UK Bank Plc hasn't refunded payments that a scammer tricked her into making.

What happened

Mrs E has a current account with HSBC. She says both her and her daughter also used to have an account with a well-known online payments system provider who I'll refer to as "P" in the rest of this decision.

Mrs E says that in January 2022 both her and her daughter had decided to close their accounts with P as money was being taken out of Mrs E's HSBC account and being transferred to her daughter's account with P. Mrs E suspected something was wrong.

Mrs E says that despite both her and her daughter closing their accounts with P money continued to be taken from her current account. Mrs E says her daughter contacted "the bank" but got excuse after excuse until October 2022. Mrs E says the "CEO" then took over and got them to make lots of false transactions so that it appeared they had no money for fraudsters or scammers to take. Mrs E says the "CEO" said their money was in a safe account and that their direct debits would be paid. Mrs E says it turns out they were speaking to a scammer and that they're now struggling to pay back what they owe.

Mrs E called HSBC about the payments that had been made to P and asked for a refund. HSBC looked into the payments and said that it could only find payments totalling just over £160 which it refunded. Mrs E was unhappy with HSBC's response and complained to us.

One of our investigators looked into Mrs E's complaint and initially said that HSBC appeared to have refunded all the payments to P that Mrs E was complaining about. So, they closed the case. Mrs E then contacted our investigator and said that she was disputing all the transactions that the "CEO" had tricked her into making – a list of which has since been produced. Our investigator said that as Mrs E had told us that she'd authorised these transactions and as she'd not provided sufficient evidence that she'd been scammed, they didn't think HSBC had done anything wrong. They also didn't think that HSBC would have been able to raise a chargeback given that Mrs E had produced the list of transactions more than 120 days after the payments had been made. In other words, after the relevant deadline for raising a chargeback.

Mrs E was unhappy with our investigator's recommendations and asked for her complaint to be referred to an ombudsman for decision. HSBC said that if Mrs E wanted to dispute new transactions then those should be raised with it first. So, this complaint was passed to me.

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.

HSBC has sent us two call recordings – both of which I've listened to. The first call takes

place on 3 September 2022. During the call Mrs E disputes payments to P. HSBC says it refunded those payments – approximately £160's worth – the same day. The second call takes place on 9 September 2022. During the call Mrs E says she'd made a mistake and didn't want to dispute the payments anymore as they were genuine. HSBC has said that it told Mrs E that it would reverse the refund, but it hasn't in fact done so. HSBC has accepted that this was an error on its part – although not one that has caused Mrs E any detriment – and has said that it doesn't plan to take this any further.

Given what I've just said, I can understand why our investigator closed Mrs E's complaint in the beginning as there was nothing more HSBC needed to do. I can, however, see that after our investigator closed Mrs E's complaint she contacted us to say that she didn't want us to look into what had happened in September 2022. She said that she wanted us to look into what had happened in October and November 2022. I can also see that following an exchange of emails a long list of disputed transactions was produced in November 2023.

Mrs E has told us that she authorised her daughter to agree to the disputed transactions being done. She's told us that she did so because the "CEO" they'd been speaking to had told her daughter that he was going to make lots of false transactions so that it appeared they had no money for fraudsters or scammers to take. And that the "CEO" had told her daughter that their money was in a safe account and that their direct debits would be paid.

I agree with our investigator that Mrs E has provided us with very little evidence that she's been contacted by a scammer. And although there are scams which involve talk of a "safe account" those normally involve a scammer getting a victim to transfer the balance in their account into another account – which is referred to as a "safe account" – in circumstances that are likely to make the victim panic and say very little to their bank. In other words, those scams operate very differently to the scenario Mrs E has described.

Given what I've just said, I agree with our investigator that the long list of payments Mrs E is disputing were – on her own evidence – all authorised and I also agree that there isn't enough evidence to say she's been scammed based on what we've seen. I agree too that it's too late to raise a chargeback. So, I agree that this complaint shouldn't be upheld.

HSBC has said that Mrs E hasn't reported any of the transactions on the long list as disputed transactions to it or reported any indication of a scam. In other words, HSBC has said that it hasn't had an opportunity to consider these transactions, or the scam and that Mrs E should report them to HSBC so it can do a full investigation. So, that's something Mrs E might want to consider. I should add that we sent HSBC the long list of transactions in November 2023 so it has been aware of them for some time, and Mrs E may well say that she has already told HSBC that she's been scammed.

In the event that Mrs E does go back to HSBC, I'd expect HSBC to consider any additional evidence Mrs E submits at the same time. For that reason, I'm not going to say anything more about whether or not HSBC should ultimately hold Mrs E liable for the long list of transactions that she's now disputing.

My final decision

My final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 16 February 2024.

Nicolas Atkinson
Ombudsman