

The complaint

Mr P has complained HSBC UK Bank plc added a fraud-related marker in his name to the industry fraud database, CIFAS.

What happened

In August 2022 HSBC closed Mr P's account. They'd been made aware that a customer of theirs had been scammed into making a payment into a supposedly safe account. This money had been paid into Mr P's account. On questioning, Mr P had told HSBC that he'd received this money from his aunt to buy a car. However HSBC knew Mr P had lied.

They closed his accounts and lodged a fraud marker with the industry fraud database, CIFAS.

Mr P subsequently found he was unable to open another bank account. His father – as Mr P was only 17 at this time – complained to HSBC on his behalf. But HSBC refused to remove the marker. They were satisfied Mr P had benefitted from the fraud.

Mr P's father brought his complaint to the ombudsman service on his behalf.

Our investigator wouldn't ask HSBC to remove the CIFAS marker as she felt that Mr P had lied to them and benefitted from the fraud. She did, however, arrange for the outstanding funds from Mr P's account (which had been given to him by cheque) to be paid into his father's account.

Still unhappy, Mr P's father has asked an ombudsman to review his son's complaint. He was particularly concerned that a CIFAS marker stayed on any record for six years. He felt this was disproportionate when the offender was only 16 to start with.

I completed a provisional decision on 28 December 2023 as I believed HSBC hadn't met the required CIFAS standards in lodging the marker. I asked them to remove the marker.

Mr P accepted this outcome. HSBC confirmed they had no further comments to make.

I now have all I need to complete my 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 reached the same outcome as I did in my provisional decision. What follows explains my thinking.

It is clear what the requirements are prior to lodging a fraud-related marker. Specifically:

"There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted."

The evidence must be clear, relevant and rigorous.”

So HSBC must be able to provide clear evidence that an identified fraud was being committed and Mr P was involved. I'm not satisfied they've done this here. I say this because:

- Mr P has told us he was duped by someone he responded to on snapchat. He thought he'd been given an opportunity to benefit from a crypto-like investment. He'd asked if anything was illegal but was reassured that everything was above board. It was only when he was made to go in a car with individuals he didn't know and who monitored what he was doing, that he realised something was wrong and felt threatened. Mr P was only 16 at the time and his father tells us is financially naïve so was prepared to go along with what was asked of him.
- I'm not sure Mr P realised the seriousness of what was happening. But when asked to withdraw £2,985 in cash from his account and hand this over he did so. He's told us it was then he realised something may be up, as this was much more than he'd expected. But I can see Mr P was given £200 for what he'd done.
- Mr P has also told us he was told to lie to HSBC by the people who'd persuaded him to do this. They remained outside the bank as he did so. He felt personally threatened.
- I've seen evidence about the funds paid into Mr P's account. These were the result of someone being scammed. There's no doubt this money wasn't his.

Stupidity and youth are no defence against fraud. However I don't believe Mr P was involved in the fraud. I appreciate he lied and wasn't honest with both HSBC or his father initially. Unfortunately it's not unusual for 16-year-olds to lie in moments of confusion and embarrassment. And I'm not convinced that lying alone is adequate reason for a CIFAS marker to be lodged. I also note that the use of snapchat and other social media by young people makes it difficult for them to discern between genuine and non-genuine individuals.

I don't have the power to ask HSBC to reduce the period a CIFAS marker should apply as I can't amend CIFAS' own rules. However I can decide whether HSBC met CIFAS' required guidelines. I don't believe they did here.

Putting things right

I don't say this lightly as it's clear that until things went completely pear-shaped, Mr P wasn't completely an unwilling participant. But I do believe he was unaware of what was really going on. I therefore believe it's fair and reasonable to ask HSBC to remove the CIFAS marker from Mr P's record.

My final decision

For the reasons given, my final decision is to instruct HSBC UK Bank plc to remove the CIFAS marker from Mr P's record.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 6 February 2024.

Sandra Quinn
Ombudsman