

The complaint

A company which I will refer to as 'L', complains that HSBC UK Bank plc didn't prevent their loss as a result of a scam. In particular they say that the bank allowed a scammer to open an account and later it failed to spot and prevent the scam.

What happened

The background to the complaint is known to both parties and so I won't repeat it at length here.

Briefly, in June 2023, L paid equivalent of about £7,400 in Euros for an invoice which they believed was from one of their suppliers. Unfortunately, unknown to them the invoice had been intercepted by a scammer who had changed the payment details. As a result, the payment went to another account with HSBC instead of the supplier's, who also had their account with the bank.

The scam came to light when the supplier contacted L for non-receipt of payment two days later. L informed their bank of the scam who in turn contacted HSBC but unfortunately by that time none of L's funds remained on that account.

One of our investigators reviewed the complaint. They didn't think that L's loss was caused by any act or omission by HSBC - either when the recipient's account was opened or subsequently when the funds were received or when responding to notification of fraud. So, they didn't think HSBC had to compensate L for the loss. L did not agree.

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 agree with our investigator and for essentially the same reasons.

L has been the innocent victim of a callous scam. So, I can see why they consider that HSBC could have done more to help them. However, from what I can see, there wasn't anything particularly suspicious about the customer's identity when the recipient's account was opened. It did later turn out that the customer was involved in a scam, but there isn't anything to suggest that HSBC could reasonably have foreseen when the account was opened, that it would later be used to receive fraudulent credit.

Further, having looked through the account activity since the account was opened, I can't say that L's payment ought to have stood out as particularly unusual or suspicious for the bank to have intervened. So, I can't fairly conclude that HSBC missed an opportunity here to prevent L's loss.

Finally, by the time HSBC was notified of the scam, their customer had already removed L's funds from their account. So, there wasn't much the bank could do to prevent L's loss. Nevertheless, I can see that the bank investigated the matter swiftly on being advised of the scam.

L is unhappy that when the genuine supplier went to the bank, they were only advised that no funds from L was received into their account, but they were not told that the money had gone elsewhere. I appreciate why L is unhappy about this, but I am not persuaded that the bank would have been able to reveal that information to the supplier. In any case, by the time the supplier contacted the bank, L's funds had already left the recipient's account.

L also says that when their customer received the payment, HSBC ought to have noticed that the payee's name on the payment instruction differed to that of their customer and therefore it should have taken action. However, as explained by the investigator, whilst the payment instruction included the name of the intended payee, the unique identifier was IBAN. So, the payment would be received into the account so long as the IBAN was correct, which was the case here.

I am sorry to have to disappoint L. But I can only make an award against a bank if that bank has done something wrong, which has led to a loss. In this case, from what I've seen there hasn't been a failing by HSBC which has resulted in L's loss. As such I can't fairly or reasonably ask it to refund their loss.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask L to accept or reject my decision before 23 February 2024.

Raj Varadarajan
Ombudsman