

The complaint

Mr H complains that HSBC UK Bank Plc won't reimburse the money he says he lost to a scam.

What happened

Mr H lives overseas, but he owns a UK property that he rents out. Mr H has a known and trusted tradesman who carries out general maintenance for him on that property. Mr H needed some electrical work done at this rental property and his trusted tradesman recommended someone, who I'll call Mr W. Mr W provide a quote of £700 for the work and Mr H made an initial payment of £250 so that Mr W could buy the materials required. A short while later Mr W visited the property and told Mr H the work had been completed, so Mr H sent the remainder of the funds – £450 – to Mr W.

However, Mr H later became aware that the work had not been completed, only a small part of the work had been carried out. Mr H says his tenant told him that Mr W had visited the property, said the job was too difficult, and then left.

Mr H reported Mr W to the police, who said there was not enough evidence to prosecute him for fraud. So Mr H then raised a claim with HSBC saying the payments he made to Mr W had been as a result of a scam, he was also unhappy with the time he'd spent on the phone trying to raise his claim, and that his online banking was suspended for a period of time.

HSBC said that what had happened was a civil dispute between Mr H and Mr W and that it would therefore not be refunding the payments Mr H had made. HSBC also did not consider that there had been any significant delay in Mr H being able to speak to it about his claim. It did though pay Mr H £100 compensation for the period that his online banking was suspended.

Mr H remained unhappy, he maintains that he was the victim of a scam and that his funds should therefore be returned to him. So he referred his complaint to our service.

One of our Investigators looked into what had happened but did not feel the complaint should be upheld, they felt it was fair for HSBC to say this was a civil dispute between Mr H and Mr W.

Mr H did not agree, he maintains that Mr W acted fraudulently and that he should therefore have the funds he paid to Mr W refunded to him. Mr H also does not feel that the £100 HSBC paid to him recognises the impact of his online banking being suspended.

I issued a provisional decision on this case on 9 January 2024. HSBC did not make any further comments, but Mr H responded detailing the numerous reasons why he believes Mr W was a fraudster and why he feels what happened to him should not be considered a civil dispute.

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.

In my provisional decision I explained the following:

"In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

And having thought carefully about all that Mr H has told us, I do consider that it is fair for HSBC to have declined to refund the disputed payments on the basis that this is a civil dispute between Mr H and Mr W. The Contingent Reimbursement Model (the CRM code) states the following regarding civil disputes:

"this code does not apply to: (b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier;"

Mr H argues that Mr W was not a legitimate supplier, but the evidence I've seen does not support that. Mr W appears to have an online presence for his business, including a website, social media, and reviews (both positive and negative) of the work he carries out. And Mr W was recommended to Mr H by someone he knows and trusts. Mr H has also noted that Mr W appeared to have built up a good reputation locally. And Mr W did attend Mr H's property and carry out some work. We've also asked Mr W's bank whether there were any concerns about his account and it has said that it has received no concerns regarding Mr W's account since Mr H's payments, which is not what we would expect to see if Mr W was not running a legitimate business.

So given that Mr W does appear to have been running a legitimate business, I think it is fair to consider him a legitimate supplier. And it's clear from what has happened that Mr H paid Mr W for services which he has not received, so I'm satisfied that this situation meets the definition of a civil dispute as set out in the CRM code.

I appreciate Mr H does not agree, but from HSBC's point of view this situation doesn't display the hallmarks most typically associated with a scam. This is not to say that there is no issue at all between Mr H and Mr W. Clearly there is. But this type of dispute isn't something that the CRM Code covers (or we as an organisation are set up to deal with). I cannot call witnesses or demand a third party such as Mr W give his version of events. I appreciate that Mr H considers Mr W to have been dishonest and that he has been defrauded. But that is only Mr H's side of the story. I understand how frustrating it is, but neither HSBC nor this service is the appropriate party to carry out the kind of cross examination and investigation that is needed to determine what is fair in Mr H's dispute with Mr W.

I know this will be a huge disappointment to Mr H. I appreciate how Mr H feels about this case, and that the work he paid for was apparently not completed. And some of the information he has sent us does suggest Mr W wasn't acting professionally. I sympathise with the position Mr H has found himself in, and I'm in no way saying that he doesn't have a legitimate grievance against Mr W. But, for the reasons I've explained above, I currently do not intend to find that the payments Mr H made to Mr W are covered under the CRM Code, or that it would be fair to hold HSBC responsible for the money he's lost.

I appreciate that Mr H's online banking was blocked for a period of time but I'm satisfied that the £100 compensation HSBC has paid to him regarding the delay in reactivating online banking is reasonable in all the circumstances of this complaint and in line with what I would have awarded."

I appreciate Mr H taking the time to respond to my provisional decision, and I can understand his strength of feeling about this matter. But I remain satisfied that it is reasonable for HSBC to decline to refund these disputed payments to Mr H as per the CRM Code.

I know that Mr H would like me to respond in detail to the points he has raised, but I don't feel there is much more I can add to what I have already said on this matter. I know that Mr H would also like me to reach a finding as to whether Mr W defrauded him or not, but that is not my role here, my role is to decide whether HSBC has treated him fairly and, with all I've seen, I'm satisfied it has. So I won't be changing my findings as set out in my provisional decision.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 March 2024.

Sophie Mitchell
Ombudsman