

The complaint

Mr E complains that HSBC UK Bank Plc (trading as First Direct) won't process payments out of his account to a known payee.

What's happened?

Mr E says that he's been sending money to his wife, who I'll refer to as 'S', in Thailand for many years, but now HSBC won't let him.

HSBC has told Mr E and this Service that it is concerned a romance scam is underway here. Before processing any further payments from Mr E's account to S, the bank requires some evidence of their marriage (for example, a copy of their marriage certificate or a copy of S' passport in her married name) and/or of the Thai mortgage/bills Mr E says he's paying towards.

Our investigator said that Mr E is unable to provide the required evidence, so HSBC should continue processing payments from his account to S without it.

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

My provisional decision

I issued my provisional decision on 16 January 2024. I'll set out my findings below.

It is my role to decide whether a business error has occurred here, and, if it has, what the business should do to put things right.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. But that's not the end of the story.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to be good industry practice, I consider that HSBC should:

- Be monitoring accounts and payments made or received to counter various risks, including fraud and scams, money laundering and the financing of terrorism.
- Have systems in place to look out for unusual transactions or other signs that might indicate that its customers are at risk of fraud (amongst other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, take additional steps or make additional checks before processing a payment, or in some cases decline to make a payment altogether, to help protect its customers from the possibility of financial harm.

HSBC has told Mr E and this Service that it won't process any further payments to S in absence of some evidence to satisfy it that Mr E isn't a victim of a romance scam. HSBC has said it's concerned Mr E is being scammed because:

- He's sending money to Thailand.
- He is not legally married to S, and there is no available documentation evidencing their relationship.
- S mainly contacts him to discuss money.
- He does not own any of the Thai properties he is supposedly paying towards.
- He is funding someone else's lifestyle and getting himself into debt to do so.
- S has never been to the UK.
- He's said he may be physically harmed if he doesn't pay S.

I've listened to the telephone conversations the bank has had with Mr E about this matter, and I've looked at some correspondence between Mr E and S that Mr E's provided. Having done so, I understand HSBC's concerns. In addition to the 'red flags' HSBC has pointed to, I've seen that:

- Mr E appears to be vulnerable – he's told the bank that he is terminally ill.
- Mr E intends to give S all the money from the sale of his property in the UK, his inheritance and his pension.
- Mr E has given several different and conflicting reasons for paying S. He's also been inconsistent about the length of his relationship with S and the amount of time he's been sending her money.
- Mr E couldn't tell HSBC when he and S were married when questioned, and he hasn't been clear about when they last saw each other face-to-face.
- S has no income of her own.
- The Thai properties Mr E is supposedly paying towards all belong to S.
- S is pressuring Mr E to send her money – continuously contacting him to request it, threatening to end their relationship if he doesn't and alleging that she will be physically harmed if he doesn't pay her.

I agree with and echo HSBC's concerns that S is scamming Mr E. I have seen several characteristics of a romance scam in this case. On that basis, I'm persuaded that it's reasonable for the bank to decline to process any further payments to S from Mr E's account until and unless it receives some evidence which satisfies it that Mr E is not being defrauded. Mr E hasn't been able to provide any evidence:

- That he has met S in person.
- Of his relationship with S.
- That S is his spouse.

- Of the financial commitments he is paying towards when sending money to S, or that his money is being used for the intended purpose.

I accept that Mr E has been sending S money for some time, but I don't think this indicates that nothing untoward is happening. The payments Mr E has successfully made to S haven't triggered HSBC's fraud detection systems – and I wouldn't have expected them to in consideration of the usual account activity – so the potential financial harm from fraud hasn't come to HSBC's attention until recently. And now that it has, I'm satisfied that the bank is taking appropriate action to protect Mr E.

Considering everything, I'm not persuaded that a banking error has occurred in this matter, so I don't intend to direct HSBC to take any remedial action. HSBC has made Mr E aware that he can switch banks if he'd like to, and it has been clear that it will allow him to pay his bills from his HSBC account.

Responses to my provisional decision

HSBC confirmed that it doesn't have any further information or evidence for me to consider before I make my final decision.

Mr E spoke about the problems he and S are experiencing as a result of HSBC's refusal to process payments to S.

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.

Neither party has provided any new information or evidence relating to whether or not a banking error has occurred in this matter. As such, I see no reason to depart from the conclusions set out in my provisional decision.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 7 March 2024.

Kyley Hanson
Ombudsman