

## **The complaint**

Mr M complains that HSBC UK Bank Plc won't refund disputed transactions made from his account. He'd like the transactions refunded and compensation for the impact.

## **What happened**

The detailed background of this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here. Mr M is represented throughout the complaint, however for ease I'll refer as though all correspondence has come directly from Mr M.

In January 2023 Mr M saw an advert on a social media site, I'll call A. The advert mentioned an opportunity to invest money for big returns.

Mr A messaged the people behind the advert on A, who he later discovered were fraudsters, and they advised him of an investment opportunity where he could invest £18,000 and the following week he'd get £22,000 back. But, Mr A didn't have £18,000 so he borrowed funds from his family.

Mr A advised that he then shared his online banking details, his debit card and driving licence with the fraudsters so they could withdraw the money from his account. And return it to him. Initially a £100 withdrawal was carried out via a cash machine then on 17, 18 and 19 January 2023 £3,700, £10,000 and £500 was withdrawn from Mr A's account over the counter in branch. But the funds weren't returned to him.

During the same period transactions totalling £3,500 were also carried out to several retail stores using Mr A's debit card and PIN.

Mr A complained to HSBC that he'd been scammed. He advised that he thought it was a legitimate investment. HSBC reviewed the circumstances of Mr A's complaint – and they decided to refund £3,500. But they thought as Mr A had provided his online banking details, his debit card and driving licence that he'd been grossly negligent. So they didn't refund the £14,200 in branch withdrawals.

Mr M brought his complaint to our service. He wanted HSBC to reconsider their position and refund the remaining £14,200 as he'd been the victim of fraud.

One of our Investigators looked into Mr M's complaint but didn't uphold it. They thought HSBC acted fairly in declining to refund £14,200 to Mr M as he'd been grossly negligent in sharing his security details.

Mr M didn't accept our Investigator's opinion. In summary Mr M said if photographic identification was used shouldn't HSBC have identified it wasn't him. And therefore provide a refund. He also argues that he didn't share his PIN with the fraudsters, this was instead obtained via his online banking.

As Mr M didn't agree the case was passed to me to decide.

## **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.

I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. I do stress however that I've considered everything that Mr M and HSBC have said before reaching my decision.

For HSBC to hold Mr M liable for the disputed transactions they first need to show how the transactions were authenticated. Having looked at the evidence I'm satisfied the transactions were either authenticated via Mr M's debit card and driving licence or using his debit card and PIN. But, this in itself doesn't allow HSBC to hold Mr M liable – they also need to demonstrate Mr M authorised the disputed transactions. Or, as they've argued in Mr M's case, that he was grossly negligent in not keeping his security details safe. Gross negligence is considered as beyond ordinary carelessness, with serious disregard or indifference to an obvious risk.

I've considered what HSBC have argued here and having done so I'm satisfied that Mr M did act with gross negligence – I think this because:

- Mr M accepts he handed over his debit card and his driving licence to the fraudsters. Our Investigator has spoken with Mr M to try to understand what he was thinking at the time – and why he thought it was reasonable to do so. Mr M explained to our Investigator that the fraudsters said to him if HSBC ask him questions then they'd be anxious for him – so it's best if they withdraw the funds then hand it to him. I find this a strange explanation – and I struggle to understand why Mr M would be concerned about any questions HSBC would ask him, if he thought this was a legitimate investment. And why he would hand over his debit card and driving licence for this purpose.
- I've also considered Mr M's decision to share his online banking details with the fraudsters. Mr M said that the fraudsters didn't tell him what they were going to do with his online banking details. If this was the case I'm unable to understand why he shared such sensitive information with them. I can only conclude that the sharing of his debit card, driving licence and online banking details with the fraudsters goes beyond mere negligence. And Mr M has demonstrated a serious disregard to the obvious risk when doing so.
- I've also considered what Mr M was expecting to receive by sharing £18,000 with the fraudsters. He's explained he believed he'd get £22,000 back within a week – meaning he'd have a £4,000 return in one week on his investment. However, Mr M couldn't advise what the investment was in or how it would work.

Mr M's argued that HSBC shouldn't have allowed the branch withdrawals to take place, considering he wasn't there in person when the identification was used. I've thought about Mr M's argument. But I don't find it persuasive. Even if a fraudster did visit a branch in Mr M's place, they had access to both his driving licence and debit card – plus his PIN, whether by online banking as Mr M argues or him sharing it with them directly. The fraudster also knew several other personal pieces of personal information about Mr M and the

relationship between Mr M and the sender of the funds. Plus they gave a plausible explanation for why they were withdrawing them. This means I can't say HSBC acted unfairly in allowing the withdrawals and not identifying the possibility it wasn't Mr M.

Whether or not Mr M shared his PIN with the fraudsters doesn't change my opinion on if he acted with gross negligence. By allowing the fraudsters access to his online banking Mr M gave them access to his personal data and security information – including his PIN.

I understand that this will disappoint Mr M but for the reasons I've outlined above I won't be asking HSBC to do anything further here.

### **My final decision**

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 November 2024.

Jeff Burch  
**Ombudsman**