

Complaint

Mr D is unhappy that HSBC UK Bank Plc didn't reimburse him after he fell victim to a scam.

Background

In November 2018, Mr D fell victim to a scam. He wanted to buy private registration plates and found some for sale on a well-known online platform. He agreed a price, met the seller in person and was given some formal paperwork relating to the plates. He was happy to proceed and transferred £8,800 to the seller's account. Unfortunately, the plates were stolen and the paperwork was forged. Mr D had, in fact, fallen victim to a scam.

He notified HSBC. It looked into things, but it didn't agree to reimburse him. It didn't accept that it had failed to protect him from the scam. It also said that, at the time of the notification, it had promptly contacted the receiving bank (i.e. the bank that operated the fraudster's account) in an attempt to secure and recover Mr D's funds. Unfortunately, those funds were removed from that account promptly and so no recovery was possible.

Mr D was unhappy with the response he received from HSBC. He referred his complaint to this service. It was looked at by an Investigator who didn't uphold it. The Investigator observed that good industry practice required that HSBC be on the lookout for unusual or out of character account activity that might have indicated a fraud risk. In this instance, she wasn't persuaded the payment of £8,800 was out of character because Mr D had made a payment of a similar size just a few weeks before the scam took place. In any event, she wasn't persuaded that HSBC would've been able to prevent the scam even if it had called him to make enquiries about the payment.

Mr D disagreed with the Investigator's opinion. He said that, if the bank stopped the payment to perform fraud checks, that would've prompted him to carry out additional checks himself and this would've prevented the scam. As Mr D disagreed with the Investigator's opinion, the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

However, that isn't the end of the story. This payment predates the introduction of the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. Nonetheless, good industry practice required that HSBC be on the lookout for payments that were out of character or unusual to the extent that they might have indicated a fraud risk. On spotting such a payment, I'd expect it to intervene in a manner proportionate to the risk identified.

We now know with the benefit of hindsight that Mr D was falling victim to a scam. However,

the question I have to consider is whether HSBC could reasonably have identified that at the time. I've considered the evidence carefully and I'm not persuaded, even if HSBC had made enquiries with Mr D prior to it processing this payment, that it would've made a difference.

There weren't any obvious red flags that would've come to light during a brief telephone call. Mr D had met the seller face-to-face and the sale was seemingly accompanied by legitimate documentation from the authorities. I think HSBC would justifiably have been able to take some comfort from that. I wouldn't expect an employee of the bank to know precisely what steps someone would need to carry out to rule out the possibility that Mr D was buying stolen plates, nor would I expect them to carry out such checks on the customer's behalf.

Mr D has argued that, if HSBC had merely raised the question with him, it would've prompted him to carry out further checks. I accept that is possible, but given that I don't think the bank would've found out anything of obvious concern during a conversation with him, it's just as likely that he'd have found a call from the bank to be reassuring and proceeded with the payment.

For the sake of completeness, I've also considered whether HSBC did everything it should've done once it was notified that a scam had taken place. I can see that it notified the receiving bank in an effort to recover Mr D's money. Unfortunately, those funds were moved out of the receiving account swiftly and so there was nothing left to recover.

I don't say any of this to downplay or diminish the fact that Mr D is a victim of a crime here. However, my role is limited to looking at the actions and inactions of the bank and I'm satisfied that any error on its part wasn't the cause of his loss.

Final decision

For the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 24 May 2024.

James Kimmitt
Ombudsman