

## **The complaint**

Mrs M complains HSBC UK Bank PLC failed to protect her accounts from fraudulent activity which led to unauthorised transactions on her account, which in turn caused her distress and inconvenience.

## **What happened**

The details of this case are well known to both parties, so I won't repeat them in detail here.

In summary, Mrs M says her accounts were taken over by a fraudster who transferred all available funds out of her accounts. She says HSBC's fraud and monitoring processes failed to pick up these transactions which were out of character and were for large amounts, so she says it allowed this to happen. Mrs M also says she was not shown any empathy or given any advice or practical solutions to help her through this difficult time. She wanted a direct point of contact for her complaint and is also not happy with how long she had to wait for the refund. Mrs M says HSBC should pay her £150,000 in compensation.

HSBC says it has refunded the unauthorised transactions in full and has also paid interest on this money for the time Mrs M was out of pocket. It says it investigated the complaint before providing the refund, as it is within its rights to do so, and gave her a response within a fair and reasonable time frame. It acknowledged that Mrs M didn't feel that its staff showed empathy towards her and apologised for this. However, it feels it handled her complaint correctly and efficiently.

Our investigator considered this complaint and decided not to uphold it. She considered all the evidence and ultimately felt that HSBC hadn't done anything wrong which warranted compensation. Mrs M disagreed, so the complaint has been passed to me for a decision.

## **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.

From the evidence I've seen HSBC has refunded the total amount of the unauthorised transactions, and 8% interest for the time Mrs M had been out of pocket. But Mrs M's complaint is now in relation to the distress and inconvenience she has suffered because of the fraud that occurred. So as the transactions have been fully refunded, I will only be considering any distress and inconvenience felt by Mrs M that HSBC is responsible for causing.

At this point I would like to set out that our Service was set up to informally resolve disputes when things go wrong. And we do this by putting the consumer back in the position they would've been in had things happened as they should have. We were not set up to punish financial providers for any wrong doings and we cannot instruct them to change their products or processes. We can consider awards for compensation, and we do so in line with our guidelines as set out in the "Compensation for distress and inconvenience" page on our website.

Mrs M says the fraud on her account would never have happened had HSBC put proper processes in place to block the transactions, and as a result she suffered distress and inconvenience. There is evidence that the fraudster was able to make these transactions using a new device which was added to her account using a code that was sent to Mrs M's. But however the fraud took place, I agree HSBC should be able to flag suspicious or unusual transactions. And usually we would expect large payments, perhaps international payments, or payments significantly out of character to be flagged. The payments in this case started off small, and gradually increased over time. As they were not raised as fraudulent after the first few transactions, its system believed the beneficiary was a known payee and further larger transactions were allowed without being flagged.

I've thought about what HSBC has said, and while I think their fraud processes could been tighter, I think its explanation is reasonable. I say this because the payments were made via online banking, and there was no significant evidence that these were fraudulent, such as failed log-in attempts, or transfers to cryptocurrency providers. In any event, in cases where we feel the banks fraud detection was not sufficient, we would ask them to put the consumer back in the position they should've been which means refunding the transactions - which I can see has already happened here.

Mrs M complains HSBC took a long time to give her a response to her complaint, and in that time, she wasn't provided with any useful solutions to help her manage her finances. Mrs M made her complaint on 12<sup>th</sup> October 2023. HSBC recognised the distress this situation was causing so it prioritised her complaint. On 25<sup>th</sup> October HSBC refunded the money that was fraudulently taken from her account. And a few days later it also paid 8% interest on this money. From the guidelines set out for these types of complaints and general industry standards, HSBC did resolve Mrs M's complaint within the required timeframe. While I appreciate must have seemed like a long time for her to wait for an answer, I have to also consider the demands on all businesses who are seeing more and more fraud complaints a day, which all need due time and resources.

Some businesses do provide a refund of any disputed funds while it investigates the complaint, however, this is not prescribed by law and is at the business's discretion. Mrs M says she had to rely on borrowing money from her son while she waited for her money to be returned. While I can understand this wasn't ideal, Mrs M was able to find a solution which meant that she didn't incur any additional costs or distress. So, while this solution wasn't provided by HSBC, a solution was found which I think would've alleviated further inconvenience and any financial loss.

Mrs M is unhappy that she wasn't shown any empathy or any human emotion around what happened to her. She visited her local branch on a few occasions and said that she wasn't offered a cup of tea or a sit down somewhere quiet, to make her feel at ease and cared for. However, I wasn't present at the branch to say whether I agree with these comments or not, but I have considered the evidence I do have on file.

I've listened to several calls which took place between Mrs M and HSBC, including the initial call to the fraud team and some follow up calls. From what I've heard, Mrs M often struggled to communicate with HSBC over the phone effectively. During some calls Mrs M complains that she is unable to hear the representative but there appears to be a lot of background noise on her end. At other times there seems to be miscommunication between Mrs M and the representative, and at times Mrs M seems to get frustrated with the person she's speaking with. But overall, I don't agree that the representatives lacked empathy or failed to show human concern over her situation on the phone.

HSBC has apologised several times for the way its staff made her feel over the phone and in its letters dated November 2023 and December 2023. And for the reasons outlined above, I

don't think it needs to do anything further.

When thinking about compensation it is important to note that we don't compensate for the impact of events that were outside of the business's control, or for the effects of a third-party's action. I can understand that being out of pocket by such a large amount must have been distressing. However, Mrs M's money was taken by fraudsters, not HSBC. And from what I've seen I think HSBC investigated her complaint effectively and put the situation right in a reasonable amount of time. So, I don't think it would be fair for me to ask HSBC to pay compensation on top of this, as the distress suffered was a result of the fraudsters actions not HSBC.

### **My final decision**

For the reasons outlined above, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 25 February 2025.

Sienna Mahboobani  
**Ombudsman**