

The complaint

Mr B complains that HSBC UK Bank Plc received funds he sent to it as part of a scam and hasn't returned them to him.

What happened

Mr B was the unfortunate victim of a cruel scam in February 2023. A fraudster used deceitful means to have him transfer £1,850.40 to an HSBC account.

Mr B contacted his own bank when he realised he'd been the victim of a scam. It in turn contacted HSBC in an attempt to secure Mr B's funds. But the money had already left the account and so HSBC couldn't return it.

Mr B went on to raise a complaint with HSBC. He felt it ought to have done more to protect him from the scam he fell victim to and he questioned why it had allowed a fraudster to open an account.

HSBC responded to say it had opened the account according to normal Know Your Customer (KYC) procedures. It also confirmed Mr B's money had been withdrawn from the recipient account before it was notified of the scam. HSBC said, on that basis, there was nothing it could do.

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 sorry to hear Mr B has been the victim of a scam. Such attacks on innocent people are deplorable and I don't underestimate the impact these events have had on Mr B. Nor do I doubt his frustrations in being told neither his own bank nor HSBC can do anything to help.

It's then with regret that I must inform Mr B that I'm unable to uphold his complaint against HSBC and I can't say it ought to refund his loss. I'll explain why. In doing so I'm aware that what I say here is broadly the same as the answer given by our investigator at an earlier stage of the complaint process. And so I want to assure Mr B I have reviewed his complaint completely afresh, it's just that there is little difference in the outcome or reasoning I am now providing.

What I need to consider

There are well-established rules, regulations, and best practices in place concerning the opening of accounts as well as the monitoring of them for – among other things – signs of fraud.

And it's of note here that HSBC is a signatory to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. Broadly speaking, the Code is in place to see the victims of scams reimbursed in most circumstances. There are different requirements the Code places on sending firms and receiving firms, HSBC being the latter in this case.

HSBC's requirements here can be summarised as a need to:

- Take reasonable steps to prevent accounts from being used to launder the proceeds of APP (authorised push-payment) scams;
- Have procedures to prevent, detect, and respond to the receipt of funds from APP scams; *and*
- Where HSBC identifies funds which may be the proceeds of an APP scam, it should freeze the funds and respond in a timely manner.

I've considered each of these requirements as part of my investigation into Mr B's complaint. And in doing so I've seen evidence from HSBC that relates to the account he sent money to. I'm not able to disclose much in the way of detail about the account or the account holder, but I can assure Mr B that I have considered the evidence carefully.

The opening of the account

My first consideration is whether HSBC acted fairly and reasonably in opening the account in the first place. A principal concern of Mr B's is that HSBC allowed a fraudster to open the account.

There's a limit to how much I can say on this point because of when the account was opened. Our power to consider this specific complaint point only came into effect on 31 January 2019. I can see the receiving account was opened prior to that date, and so I don't have the power to investigate the account opening process and what was provided. I've noted, however, that HSBC has previously provided assurances that the normal KYC process was followed, though I can understand that may offer little reassurance to Mr B.

Were there signs of misuse on the account that HSBC ought to have noticed and reacted to?

I can consider is the activity on the account. HSBC ought to monitor accounts it holds not only for signs that its customers might be falling victim to a scam, but also to monitor for signs that the accounts are being misused.

I've reviewed statements for the receiving account going back a full year from the point at which Mr B made his payment. I can't see anything within the transaction history that leads me to believe HSBC ought to have had concerns about how the account was being operated. And I can't see that there were any other reports of scams against the account prior to Mr B making his payment.

With that in mind, I can't say HSBC made an error in failing to detect the misuse of the account, or that it ought to have been on notice something was wrong prior to Mr B making his payment.

Did HSBC act fairly and reasonably once notified of the scam?

I can see Mr B's own bank contacted HSBC late at night and the receiving account was inhibited the next day. I do think there's an argument to say that HSBC could have acted more quickly, given long-established best practice standards. However, I'm not persuaded faster action would have made a difference to Mr B's chances of recovering his funds.

I say as much as it's clear Mr B's funds had been removed from the receiving account before his own bank contacted HSBC. So there was no way it could have acted fast enough or stopped the funds from leaving the account.

Conclusions

I've no doubt that Mr B will be disappointed by what I've said here. There isn't much I've been able to tell him about the receiving account or the person that opened it. And I haven't been able to say he should have his money returned by HSBC.

As unsatisfactory as that may be, I'm afraid I can't see that HSBC has acted unfairly or unreasonably in accepting the payment from Mr B or in how its responded to the complaint.

Mr B has asked about HSBC reporting the account holder to the police. But it's Mr B that is the victim of a crime here and so it would be for him to report. Should the police then contact HSBC to pursue the matter I'd expect it to cooperate. There's no indication that it wouldn't do so.

My final decision

I don't uphold this complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 July 2024.

Ben Murray
Ombudsman