

The complaint

Mrs R has complained that HSBC UK Bank Plc (“HSBC”) didn’t protect her from falling victim to a scam, and it also hasn’t refunded what she lost.

What happened

The background of this complaint is already known to both parties, so I won’t repeat all of it here. But I’ll summarise the key points and then focus on explaining the reason for my decision.

Mrs R has used a professional representative to refer her complaint to this service. For the purposes of my decision, I’ll mainly refer directly to Mrs R, but I’d like to reassure Mrs R and her representative that I’ve considered everything both parties have said.

Mrs R says that in June 2023 she was contacted by phone by an individual (“the scammer”) posing to be from HSBC’s fraud team. She says the call came from a withheld number, but as she has a HSBC bank account, and as the scammer sounded professional, she trusted that the call was genuine.

Mrs R says she was directed by the scammer to log in to her online banking service to verify some transactions. She could in fact see that some payments had been made that she didn’t authorise, so the scammer urged her to transfer an amount of £9,150 to a different account to keep it safe. She’s explained that she was directed by the scammer send the payment to an account held by a different individual, as well as using the words “god son” as a reference – and she was told to select the payment type as “paying friends or family”.

Mrs R also explains that during the payment process she received a call from HSBC’s genuine fraud team, questioning the reason for her payment. She advised HSBC she was making a payment to her god son to assist with his university fees – which she says she was told to say by the scammers in the previous call – and the payment was released.

Mrs R says she realised she’d been scammed when HSBC sent her a text to advise her of this. Mrs R complained to HSBC, saying that it didn’t provide any effective forms of intervention before she made the payment to the scammers. HSBC didn’t uphold Mrs R’s complaint as it said Mrs R didn’t take reasonable steps to ensure the payment she was making was genuine.

Mrs R remained unhappy so she referred the complaint to this service.

Our investigator considered everything and didn’t think the complaint should be upheld. He explained he thought that HSBC had intervened proportionately, but Mrs R hadn’t been honest when questioned about the reason for the payment by HSBC. So he didn’t think HSBC could’ve prevented the scam from taking place.

As Mrs R didn’t accept the investigator’s opinion, the case has been passed to me to make 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.

I'm sorry to disappoint Mrs R but having considered everything I'm afraid I'm not upholding her complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mrs R authorised the payment from leaving her account. It's accepted by all parties that Mrs R gave the instruction to HSBC and HSBC made the payment in line with that instruction, and in line with the terms and conditions of Mrs R's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

Mrs R says she wasn't given any effective warnings during the payment journey – so I've firstly considered what happened. And if HSBC didn't do something that I think it should've done, I'll consider how, if at all, that affected the outcome for Mrs R.

I can see that when Mrs R made the payment using online banking it was made to an account held in a different individual's name, at a different bank. And Mrs R selected the reason for the payment as "paying friends or family" – despite being given the option that she had "received an unexpected call from the bank". I understand that Mrs R was told by the scammer to choose this payment reason and I'm not aware that she questioned this.

Following this, the payment was held and HSBC called Mrs R to discuss it by phone before it was made. I've listened to that call, and having done so, I don't hold HSBC responsible for the loss that Mrs R has experienced as a result of the payment being made.

In the call, HSBC ("the agent") firstly confirms whether Mrs R was asked about the purpose of the payment when she entered the information online – which Mrs R says she wasn't. She's also asked whether there "was a match" when Mrs R entered the name of the payee – which Mrs R confirmed there was.

The agent goes on to confirm that Mrs R is sending funds to her godson and asks Mrs R to expand on exactly why she's doing so. Mrs R explains that her godson visited her and asked if she could help with university and accommodation fees, and Mrs R explains the payment is somewhat urgent because of that. The agent asks *how* Mrs R's godson asked for the payment – for example in person or by text, and Mrs R confirms he asked her in person as she says she'd previously offered to lend him money if he was in need. I note Mrs R also provided further information to persuade the HSBC agent that she was "doing a good deed" and "he needs the money, and I've got it".

The agent goes on to explain that the reason the payment has been held is to protect her from fraud, and that some customers have been contacted by fraudsters claiming to be from HSBC. They also explained that customers are sometimes coached into what story to give the bank if asked – and they asked Mrs R if this had happened to her. Mrs R confirmed that nobody had contacted her unexpectedly or requested she do anything of this nature or give the bank any untrue stories if asked. The agent also asked if Mrs R was on the phone to anyone else whilst speaking to them, which she confirmed she wasn't. The agent went on to

explain that some customers have been told by fraudsters their accounts aren't safe, and Mrs R explained that if she ever receives any calls or texts like this, she ignores them.

The agent then explained that some fraudsters convince customers to transfer money into a "safe account" elsewhere – and told Mrs R that HSBC would never do that. Mrs R confirmed she was very aware of this and she again reiterated she was unsure why her payment to her godson still hadn't been made, as she needed to it be processed.

The agent went on to ask Mrs R the age of her godson. Mrs R told HSBC he is 23 years old, and she was then asked how her godson gave her his bank account details. Mrs R confirmed he'd provided his details in person when he'd recently visited her house.

HSBC asked Mrs R a few more questions and Mrs R answers, as well as saying "I don't know why you're asking me all these silly questions". Finally, the call finished and the payment was made.

Having listened to this call, which lasted for around 20 minutes, I'm satisfied that HSBC asked sufficiently robust and probing questions in order to understand as much about the payment being made as it could. It's unfortunate that Mrs R appears to have been coached, and that she was "under the spell" of the scammer, so the answers she gave weren't truthful. She was reassuring and gave a lot of detail about the reasons behind paying her godson, previous communication with him, and her relationship with him. She also appeared frustrated by HSBC's interventions, and not at all concerned about the situation she was in, so I can understand why HSBC ultimately released the payment.

I'm also satisfied that based on the phone call, Mrs R had sufficient opportunity to either recognise the scam herself, or to give HSBC information that was accurate enough so that it could've done more to prevent the payment being made.

Whilst I do understand Mrs R says she was guided by the scammer on how to answer the online banking questions, and on what to say during the phone call with HSBC, but that doesn't mean HSBC is responsible for Mrs R's loss. I'd only be able to hold HSBC accountable if I felt it should've done something that it didn't do, and that ultimately led to the payment being made when it otherwise wouldn't have been.

As that's not the case here, as the answers Mrs R gave to HSBC weren't accurate, I can't say HSBC is at fault.

I note Mrs R's point that this was an unusual payment when taking into account the rest of her account activity. So I think it was proportionate for HSBC to intervene – which it did by showing her an on-screen warning, and by contacting her by phone to ask questions and warn her about "safe account" scams like this one. For the reasons I've explained, although they were unsuccessful, I think HSBC's interventions went far enough to address risks presented by the payment, based on all of the facts, including the information Mrs R gave when questioned by HSBC.

Finally, Mrs R's representative's response to our investigator included the assertion that "The bank have failed in their duty to ask such probing and relevant questions to our client. They have failed to intervene and provide the effective scam warnings in which she deserved." I've thought carefully about this, but I hope my decision explains how this isn't the case. So I'm afraid it doesn't change the outcome, and I therefore don't uphold Mrs R's complaint.

Recovery of the funds

When HSBC was made aware of the scam it contacted to receiving bank in order to attempt to recover anything that remained. It was advised that all but £4 had been withdrawn – which it returned to HSBC to be re-credited to Mrs R. Whilst I understand Mrs R felt insulted by this, HSBC did what it needed to, so there's nothing else I'd have expected it to do.

I certainly don't dispute that Mrs R was scammed and I acknowledge that she's the victim here. I'm sorry to disappoint Mrs R but for the reasons I've set out, I don't hold HSBC responsible for that.

My final decision

I don't uphold Mrs R's complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 5 November 2024.

Sam Wade
Ombudsman