

## **The complaint**

Mr A complains that HSBC UK Bank Plc (“HSBC”) is holding him liable for the debt on a loan which he says he neither applied for nor consented to.

## **What happened**

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, in January 2023 a loan was taken out with HSBC in Mr A’s name for £10,000. Mr A subsequently got in touch with HSBC to let it know he hadn’t applied for the loan. HSBC investigated things and ultimately couldn’t reach agreement with Mr A, so he referred his complaint about HSBC to us. As an Investigator here couldn’t resolve the matter informally, the case has been passed to me for a decision.

I sent Mr A and HSBC my provisional decision last month, explaining what I was minded to decide and why. HSBC responded and said it agrees with my provisional decision. Mr A responded to my provisional decision remaining unhappy. Now both parties have had fair opportunity to respond, I’m ready to explain my final 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.

Having done so, I’ve reached materially the same conclusions as explained in my provisional decision, and for the same reasons. I’ve explained why again below, with some further comment where I have deemed it appropriate, to address Mr A’s response to my provisional decision.

I’ve focused on what I think is the heart of the matter. If there’s something I’ve not mentioned, it isn’t because I’ve ignored it. I haven’t. I’m satisfied I don’t need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

First, let me clarify exactly what this decision is about. I understand Mr A has explained that in January 2023 he was tricked by scammers resulting in this loan being taken out and the funds being paid away from his HSBC bank account and lost to the scam. This decision won’t address the payments made from Mr A’s HSBC bank account (so matters regarding prevention, recovery, or other reimbursement of those funds) because that is not the complaint referred for final decision here. Instead, this decision concerns only the £10,000 HSBC loan and whether it’s fair for HSBC to hold Mr A liable for this loan bearing in mind what Mr A has said about the circumstances in which it was taken out.

I’ve decided to uphold this complaint in part. I’ll explain why.

The first question is: did Mr A enter into this loan agreement, or was it done without his knowledge and consent as he alleges?

Having considered this carefully, I think it's most likely the loan was taken out in Mr A's name without his knowledge and consent, and he therefore did not enter into the loan agreement. I say this because Mr A has said he was contacted via a social media platform by an 'influencer' who persuaded him they could help him recoup direct debits. It seems Mr A most likely gave these fraudsters enough information to enable them to apply for the loan in Mr A's name without his knowledge and consent. And Mr A has said when he then saw the loan, he contacted the fraudsters straight away but was then reassured the loan was part of the process. So, whilst Mr A may have known about the loan before the loan funds were spent from his account, it seems likely he didn't consent or know about the loan when it was applied for.

Since I'm satisfied Mr A most likely didn't apply for or agree to this loan, I don't think it would be fair for HSBC to hold him to the terms of the loan agreement he never applied for or consented to. So, HSBC shouldn't hold Mr A liable for interest and charges, neither should there be a record of the loan on Mr A's credit file – so if there currently is, this should be removed.

At the same time, I don't think HSBC was reasonably to know at the time that the application hadn't come from Mr A or that there was something untoward about it. I take on board what Mr A has said about this in response to my provisional decision. But bearing in mind the information Mr A appears to have given the fraudsters, I'm not surprised if they were able to take the loan out without Mr A's knowledge or consent. But this doesn't mean HSBC did anything wrong. And I'm not persuaded here I could fairly say HSBC didn't take reasonable steps to verify the application was genuine; and the loan funds were paid to Mr A's bank account, not the fraudsters'. So, it doesn't automatically follow that it would be fair for me to tell HSBC that it should not be able to pursue Mr A for any of the loan funds that are still outstanding, or that it should be required to refund to Mr A any repayments to the loan he has already made, if any. I say this because it seems to me that he would have known about the loan before the funds were transferred and lost to the scam. And whilst I take on board what Mr A has said about the scammers persuading him it was all part of the process, I'm not persuaded I can fairly say Mr A took reasonable steps, before the loan funds were spent, to verify that everything was legitimate. I don't doubt now that Mr A wishes he had done so, and that he was taken in by the scammers. But in circumstances like this, I don't think I can fairly say that HSBC should not be able to pursue Mr A for any of the loan funds that are still outstanding, or that it should be required to refund to Mr A any repayments to the loan he has already made, if any.

I'm aware Mr A has asked for his account to be reinstated, and by this I understand he may be referring to his HSBC bank account. But I can't see that Mr A has previously complained to HSBC about this point – and he would need to do so before we could consider a complaint about whether HSBC acted fairly and reasonably in closing his bank account, if indeed it did so. So I can't comment on this point in this decision further, and if Mr A remains dissatisfied he'd need to pursue this point as a separate matter.

### **My final decision**

For the reasons explained, I uphold this complaint in part and I direct HSBC UK Bank Plc to:

- remove all interest and charges on the loan;
- take any repayments already made to the loan by Mr A to date, if any, as having reduced the loan balance;
- remove reference to the loan from Mr A's credit file; and
- not pursue Mr A for more than the outstanding amount of the principal loan of

£10,000.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 16 July 2024.

Neil Bridge  
**Ombudsman**