

The complaint

Mr A has complained HSBC UK Bank plc lodged a fraud-related marker on the industry fraud database, CIFAS, in his name.

What happened

In early 2024 Mr A was told by HSBC that they were closing his account. They also lodged a fraud-related marker on his record with CIFAS.

Mr A subsequently discovered his main bank account was closed down. He was told to review his record at CIFAS and discovered HSBC had lodged a CIFAS marker and complained to them.

Mr A asked HSBC to remove the marker. HSBC didn't feel they'd done anything wrong and refused to remove the marker.

Mr A brought his complaint to the ombudsman service.

Our investigator reviewed the evidence and wouldn't ask HSBC to remove the marker.

Mr A disagreed with this outcome. He's asked an ombudsman to consider his complaint.

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 the same outcome as our investigator. I'll explain why.

It is clear what the requirements are prior to lodging a marker. Specifically:

“There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted.

The evidence must be clear, relevant and rigorous.”

So HSBC must be able to provide clear evidence that an identified fraud was being committed and Mr A was involved.

There's also a requirement that HSBC should be giving the account holder an opportunity to explain what was going on.

I've seen the evidence provided by HSBC. This confirms they received notification from customers holding accounts at two different banks who'd been scammed into sending funds (£13,000 and £20,896.89) to Mr A's HSBC account. As soon as these funds were received into Mr A's account, they were transferred to Mr A's HSBC global money account and then sent out to a specific individual overseas.

Mr A has told us he moved house and opened another bank account. He didn't feel any need to tell HSBC he'd moved and wasn't available when they tried to contact him, both by phone and post to query where these funds came from. Mr A confirmed to us that he didn't use his HSBC account and didn't recognise any of the use we shared with him that was fraudulent. He's also since said he was having trouble with his phone so is positive that none of the use was his.

I've considered all of this, but I don't believe Mr A.

There were at least two payments to the same individual overseas from Mr A's HSBC global money account, at the time Mr A was still using his accounts. So, I can see two transactions for just £40 and £10 made on 21 January 2024. Looking at Mr A's main HSBC account there's evidence he was making transfers to his global money account on 21 January and then on 22 January he transferred out the few pounds and pence (£3.41) to another account he held with another bank. I know this must have been Mr A as he used the account and reference ("*hi me*") which matches numerous other transfers from his HSBC account from the time this was first opened in November 2022 until the time he says he stopped using it.

Mobile phone evidence from HSBC confirms the same phone as Mr A used throughout the time he held his accounts with HSBC was the device used to make the transfers to his other account and to the individual overseas. His own internet banking reference was used.

Even though Mr A has told us he was having difficulty with his phone – and I have considered the evidence he's given us about this – I still find it difficult to know how someone could have accessed his phone and then been able to log onto his bank accounts. Firstly, this was to enable that account to be used to receive fraudulent funds and then to transfer the funds and pay – completely coincidentally – an individual that Mr A had paid before.

I note HSBC did contact Mr A to question his entitlement to the money as required, but received nothing from him.

The requirements around banks lodging markers at CIFAS include there being sufficient evidence that the customer was aware and involved in what was going on. In this case I think this most likely exists here from reviewing the payments made into Mr A's HSBC account.

On this basis I don't believe it would be fair and reasonable to ask HSBC to remove the CIFAS marker.

My final decision

For the reasons given, my final decision is not to uphold Mr A's complaint against HSBC UK Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 26 November 2024.

Sandra Quinn
Ombudsman