

The complaint

Miss B has complained HSBC UK Bank plc did nothing to stop her making payments as the result of a scam.

What happened

In 2023 Miss B was the victim of a scam. She was threatened over a photograph and felt extremely vulnerable as she told them she was unable to pay.

Within a short period, she was approached by somebody advising Miss B to download an app, open a money transfer app account with a business I'll call W, and start rating films to earn points. Doing this regularly would earn her commission. As Miss B had been job searching, she felt this was above board and found her contact on the phone built up a genuine rapport with her to establish trust.

Miss B spent just over £14,700 using her debit card to load up the money transfer wallet as well as making four bank transfers using her two HSBC accounts. Miss B's account with W was blocked so Miss B had to use a different method to make further payments. As Miss B attempted to make the first transfer for £5,000, HSBC intervened and spoke to Miss B about why she was making this payment. She confirmed this was for her wedding and the payment was made. A further payment was also subject to intervention with Miss B telling HSBC the payment was for her wedding arrangements.

When Miss B realised she'd been scammed, she asked HSBC to refund her. They refused partly as they felt some of the payments went to her own money transfer account and therefore weren't caught by the Contingent Reimbursement Model (CRM) code. Miss B brought her complaint to the ombudsman service.

Our investigator reviewed the evidence including calls between Miss B and HSBC. She believed that HSBC had intervened, and it was clear that Miss B was doing all she could to circumvent any checks that HSBC was carrying out. She wasn't going to ask HSBC to refund any money to Miss B.

Still unhappy, Miss B asked for her complaint to be referred to an ombudsman.

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.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

Miss B was scammed and has lost a considerable amount of money. She has my sympathy about what she has gone through.

There's no dispute that Miss B made and authorised the six debit card payments from HSBC to her wallet with W. As that account became more difficult to use, Miss B also made four separate online payments from her two HSBC accounts.

I'm satisfied the disputed transactions were authorised under the Payment Services Regulations 2017

Our starting point is that banks are required to follow their customer's instructions. But, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in 2024 that HSBC should:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment (as in practice HSBC sometimes does including card payments);
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.

I'm satisfied that HSBC ought to have recognised that these payments carried a heightened risk of financial harm from fraud. A proportionate response to that risk would have been for HSBC to have intervened.

It is clear from the evidence submitted to our service by HSBC that they did intervene. Miss B's payment for £5,000 was blocked. HSBC discussed this transaction in a telephone call with Miss B. During that call on 15 December, HSBC asked Miss B a range of questions about the payment she was making. It was also clear to her that this was a result of potential fraud. Miss B convincingly told HSBC that this payment was being made for her wedding and she was paying a friend, after her account with W had been blocked.

I'm aware that during this period when discussing transactions with HSBC, Miss B wasn't being truthful but she was both being threatened about the existence of a photograph as well as being led to believe she'd earn amounts after using a certain app to rate movies. I think that HSBC should have been more alert to what was going on.

I'm also aware that Miss B has other accounts which at this time successfully blocked transactions and stopped Miss B from using some of her funds.

I've looked at Miss B's historical account use of her HSBC accounts. There are no obvious

trends other than a large amount of money comes into and out of her accounts. She uses her debit card extensively for large-value payments. For example, the payments Miss B made to W are relatively small value, except the latter payment on 18 December, so I wouldn't have expected HSBC to notice these and intervene when these were made.

However, the four direct payments are different. It's worth saying immediately that unlike the debit card transactions, these clearly fall under the CRM code. HSBC took action immediately. This is the phone conversation on 15 December when Miss B constructed a story about her wedding and what this payment was for.

HSBC made sure that Miss B understood that in making this payment on her behalf, they wouldn't be able to refund her. However, the following day Miss B made two further payments to the same person at 10:39 and 10:40. If Miss B owed money on 16 December, why wouldn't she have made the payment on 15 December for £8,000 rather than split this into three payments? And certainly, why would she make two payments within a minute of each other when she could have made one payment of £3,000.

I appreciate that HSBC spoke to Miss B later on 16 December when Miss B told HSBC she was paying for wedding services, but I believe they missed an opportunity to block Miss B's payments made in the morning of 16 December. Unfortunately for Miss B I don't believe this would have made any difference as based on the other conversations, I'm sure Miss B would have continued to mislead HSBC to ensure the payments were made.

Whilst I have every sympathy for Miss B and the large amount of money she has lost, I don't think it would be fair and reasonable to ask HSBC to refund Miss B.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 11 November 2024.

Sandra Quinn
Ombudsman