

## **The complaint**

Mr J says HSBC UK Bank PLC (“HSBC”) refuses to refund him for transactions on his account he says he didn’t authorise.

## **What happened**

At this point, the facts of the case are well known to both parties, so I won’t repeat them in detail here.

In short, Mr J is disputing payments on his account made via ApplePay in Coventry. He says he is based in London and didn’t make these payments. He would like HSBC to refund the payments; remove any interest and fees occurred as a result; and remove any adverse information recorded on his credit file in relation to the overdraft the transactions caused.

HSBC says it will not refund the transactions in dispute as they were done using the same device as other transactions Mr J confirmed were genuine. HSBC also says even if it believes Mr J’s version of events, he must have provided a one-time passcode (OTP) to a third-party in breach of the terms and conditions of his account. So, either way, it feels Mr J should be held liable.

Our investigator considered this complaint and, most recently, decided not to uphold it. Mr J didn’t agree so the complaint has been passed to me for a 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.

I’d like to reassure both parties that although I’ve only given an overview of what happened, I’ve read and considered everything we’ve been provided in its entirety. Where there’s a dispute about what happened, and the evidence is incomplete or contradictory, I must make my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence.

HSBC has provided evidence to show the transactions in dispute were made via Apple Pay, all on the same device. It has also provided evidence to show the steps required to add a card to ApplePay via the banking app, or via the ApplePay wallet. Adding it via the app required access to Mr J’s app banking details, and Mr J maintains that he hasn’t shared this with anyone else, but he has said he tried to add ApplePay to his device around this time. Adding ApplePay via the Apple wallet requires an OTP which would’ve been sent to Mr J’s phone number. And Mr J has told us that he received an OTP around this time but he says he didn’t share it. I don’t have the evidence to confirm how ApplePay was added in this case, but I have evidence that ApplePay had only been added to one device and all the transactions had been made using ApplePay.

Having looked through the information many times, I have found several discrepancies with Mr J’s testimony which makes it difficult to rely on what he’s saying. Mr J says none of the

transactions made in Coventry were made by him as he is based in London. However, he used one of the disputed transactions from Coventry to verify his account when calling HSBC.

In addition, HSBC has sent a recording of a call, which Mr J has listened to, from 19 August 2023. Mr J is saying this wasn't him on the call. However, during the call on 21 August 2023 when he reported the fraud, he was asked about the call on 19 August 2023 in length and he confirmed he had spoken to HSBC that day. During the call on 19 August and on 21 August, Mr J confirmed a transaction to "Aura" was made by him. He talks about a failed payment, and then a payment going through. And I can see the transactions to Aura include one declined a payment and one successful payment. But now, in response to the investigator, Mr J denies making this payment.

So overall, I am not persuaded by what Mr J has said as his testimony includes several inconsistencies. I appreciate the events we are talking about happened more than a year ago now, and memories fade over time. However, I think the call recordings are likely to be a more accurate reflection of the events as they took place at the time of the events – so Mr J's memory is likely to be more reliable then as opposed to now.

HSBC has shown the transaction made to "Aura" was made on the same device as the disputed transactions in Coventry. And as Mr J confirmed at the time that he had made these, I think it's likely he also made the disputed transactions. I've also seen evidence Mr J logged into his online banking on 19 August 2023 – which is in the middle of the disputed payments. So, I think, had Mr J not been responsible for the payments in dispute, he would've raised them at this point as several transactions had already happened by then.

I've also considered the nature of the activity on the account, in comparison to what we usually see in cases of fraud. Usually when a fraudster has access to ApplePay connected to someone else's account they would make large payments in quick succession before being blocked – specially considering there is no limit to the value of the payments made on ApplePay. However, most of the transactions in dispute were made for small amounts and made across a few days. I've also seen that Mr J deposited money into the account before and during the disputed transactions. He has provided some explanation for why he did this, but for the reasons outlined above, I've not been persuaded by his testimony overall.

I appreciate this outcome will be disappointing for Mr J, but for the reasons outlined above I am not upholding this complaint. I understand Mr J would still like the information recorded on his credit file to be removed. However, as I have made a finding that Mr J is liable for the transactions, and therefore for the debt, I won't be able to ask HSBC to amend any information recorded on his credit file.

### **My final decision**

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 12 March 2025.

Sienna Mahboobani  
**Ombudsman**