

The complaint

Mr and Mrs C have complained that HSBC UK Bank Plc (“HSBC”) failed to protect them from falling victim to an impersonation scam.

What happened

The background of this complaint is already known to all 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.

Mr and Mrs C have used a professional representative to refer their complaint to this service. For the purposes of my decision, I’ll refer directly to Mr and Mrs C, but I’d like to reassure Mr and Mrs C, and their representative, that I’ve considered everything all parties have said.

Mr and Mrs C fell victim to an elaborate scam beginning with a call from individuals claiming to be from an overseas embassy, who accused Mr C of being involved in money laundering. They instructed him to contact the police, leading to a video call staged to look like a police station in the country of the alleged crime, with people in uniform and a fabricated arrest warrant, using details from Mr C’s passport.

The scammers falsely claimed there was a bank account under Mr C’s name supposedly tied to fraudulent activity. The scammers pressured Mr C to prove his financial legitimacy, using emotional manipulation to heighten his anxiety and compliance, which was exacerbated by difficult circumstances in Mr and Mrs C’s personal lives. The scammers maintained regular contact to increase pressure, further isolating Mr C and discouraging him from reporting the scam.

Mr C says he struggles with English, and he was instructed to present confusing documents to his bank for transactions. Due to his language limitations, he was unable to fully understand the documentation. Mr and Mrs C say that although the bank staff noted the large transactions and asked for their purpose, they failed to question them thoroughly as to the circumstances behind them. Mr and Mrs C say that this lack of scrutiny allowed the transfers to proceed as the bank didn’t adequately consider the language difficulties or apparent distress.

The payments Mr and Mrs C made as part of the scam were £20,000 on 25 August 2023 and £25,000 on 7 September 2023. They complain that had the bank followed stricter procedures, the suspicious nature of the situation may have been detected earlier, potentially preventing Mr and Mrs C’s financial losses.

Mr and Mrs C realised they’d been scammed when the scammer demanded another payment for a supposed court order. They sought assistance from a public body in their home country and they were advised they’d fallen victim to a common and well-known scam. They made a complaint to HSBC. HSBC didn’t uphold the complaint as it said that Mr C gave it inaccurate information when it asked him what the payments were being made for. It said that as the information Mr C gave wasn’t true, HSBC staff had no reason to doubt the legitimacy of the payments.

Mr and Mrs C remained unhappy so they referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. He explained he didn't think the payments were particularly out of character for Mr and Mrs C, as they'd made large payments in the months preceding these payments. He also didn't think HSBC would've been able to uncover the scam and Mr and Mrs C were given a cover story to follow in case they were questioned by the bank.

As Mr and Mrs C 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 Mr and Mrs C but having considered everything I'm afraid I'm not upholding their 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 Mr and Mrs C authorised these payments from leaving their account. It's accepted by all parties that Mr and Mrs C gave the instructions to HSBC and HSBC made the payments in line with those instructions, and in line with the terms and conditions of Mr and Mrs C'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.

HSBC has provided its records from the time the two payments were made in its branches.

For the payment on 25 August 2023 the category selected was "Buying goods and services" and a note in the record shows "Sending funds to pay for kitchen tiles to be imported". Within the record there's a message stating "Warning not required" and notes that there weren't any other concerns – as Mr C had checked all of the details and was happy to send the payment.

For the second payment, on 7 September 2023, the notes again suggest there weren't any concerns. The payment purpose has been selected as "Paying bills" and a note says that Mr C made the payment for a property renovation. On this occasion HSBC's records show Mr C was shown a warning relevant to "Paying bills", which he acknowledged.

I've reviewed the branch process for the "paying bills" warning that HSBC says it gave to Mr C for this payment. The process is extensive and guides the HSBC employee on red flags to be aware of, questions to ask, and documents to check before making the payment if they have any concerns. But the notes on HSBC's file don't suggest that there were any concerns, so I think it's unlikely the questions were asked, nor the documentation checked.

I do note that some of the questions the HSBC staff member could've asked, in line with HSBC's guidance, may've been relevant to the scam. For example there's a question which says *"Are there any unusual spend pattern eg. Customer has made out of character payments repeatedly, for the same purpose or to the same payee"* and *"Is the payment*

required urgently after an unexpected call / email / text". I don't know if HSBC asked these questions but having considered the other information on the file, I'm not persuaded that they would've uncovered the scam in any case. I also wouldn't have expected HSBC to interrogate Mr C unnecessarily if it didn't have sufficient reason to do so.

I say this because Mr C says he was put under pressure by the scammer on how to answer the bank's questions, including threats to his life if he disclosed details of the scam to his family or the police. It appears Mr C followed the scammer's instructions as he gave HSBC untruthful answers for both payments, so it's evident he was willing to comply with the demands of the scammers, and understandably, was probably fearful about the consequences of not doing so. But with this in mind think it's likely that even if HSBC had probed Mr C further on the background and circumstances of the payments, he'd have maintained the cover story given to him by the scammers, and the scam wouldn't have been uncovered.

I'd like to reiterate that I recognise how distressing this situation must've been for Mr and Mrs C and I fully accept they're the victims in this scenario. But for me to tell HSBC to refund the money they've lost I'd need to be convinced that HSBC could've uncovered the scam and prevented it. But for the reasons I've explained, I'm not persuaded that's the case here.

In considering Mr and Mrs C's allegations against HSBC, it was also fair for me to consider whether Mr and Mrs C could, or should, have done anything differently to prevent the loss they experienced.

As I've mentioned, Mr C gave HSBC incorrect information when it asked for the reasons for the transfers. Whilst I understand there was a reason behind this, it's an important consideration to keep in mind because it affects how well HSBC could've intervened.

But I'm also mindful that Mr C says he was told by the alleged authorities (the scammers) about an outstanding debt in an account overseas, and he was required to pay the country's embassy in order to clear the debt. It doesn't appear Mr C did any checks to verify this information, such as with the embassy in the United Kingdom, or by contacting the embassy directly, and it's very unlikely an official public authority would issue death threats under any circumstances. Additionally, the two payments were made with a gap of around two weeks between them so I don't believe Mr C was put under such pressure that he wouldn't have had time to do further checks or report the issue before proceeding.

I'm also mindful that the beneficiary's name on the payments bore no relevance to an official overseas authority or embassy. This, as well as the fact that Mr and Mrs C were being contacted through a social media channel, could and should have been something that they questioned further before making the payments.

Recovery of the funds

I've seen that HSBC contacted the recipient's bank when it was made aware of the scam, but that the funds haven't yet been recovered as the bank contacted the recipient of the funds several times but didn't receive a response. International banks aren't obliged to return payments obtained fraudulently, and recovery attempts are completed on a best endeavours basis by the sending bank. As HSBC has attempted recovery, there's nothing else I'd have expected it to do here.

There's been a lot of correspondence in relation to this complaint and I'd like to reassure everyone that even if I haven't individually addressed a point that's been raised, it's not intended as a discourtesy to any of the parties, and I've considered everything on file. But I've only included the points I consider relevant to the outcome of the complaint.

I'm very sorry that Mr and Mrs C have fallen victim to this scam and I do understand that my decision will be disappointing. But for the reasons I've set out above, I don't hold HSBC responsible for that.

My final decision

I don't uphold Mr and Mrs C's complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 4 December 2024.

Sam Wade
Ombudsman