

The complaint

Mr T complains that HSBC UK Bank Plc ('HSBC') won't reimburse the funds he lost when he says he fell victim to a scam.

What happened

Mr T says that in around July 2020 he was approached by a business acquaintance I'll refer to as O in my decision and asked to help export gold from West Africa to the United Arab Emirates (UAE). O recommended a trader from West Africa I'll refer to as S, who had a company I'll call M. Mr T says he had met S in 2017 and witnessed him execute an order for gold.

Mr T communicated with S for a few months. S also shared documents such as customs documentation, a travel insurance document, M's licence to buy gold, and a copy of his passport. In October 2020 Mr T made two payments of £10,000 and £5,000 to M for shipping expenses and taxes.

Mr T says he notified S that the payments had been made but he became evasive and gave excuses. In December 2020 S said he was going to the embassy to collect documents, but Mr T didn't hear from him after this.

Mr T first contacted HSBC to report what had happened in June 2023, but he was misadvised about next steps. HSBC didn't look into things until Mr T's representative made contact at the end of 2023. Mr T says the delay in reporting his loss was as a result of ill health.

HSBC said it was unable to consider Mr T's complaint under the Lending Standards Board's Contingent Reimbursement Model Code ('CRM Code') as it doesn't apply to international payments such as the ones Mr T made to M. There was no error when the payment was made, and the bank Mr T's funds were transferred to hadn't responded when HSBC tried to recover the funds. HSBC recognised that its service fell short when Mr T first reported what had happened and agreed to pay £300 compensation.

Mr T was unhappy with HSBC's claim response and brought a complaint to this service.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She said that she hadn't been provided with evidence which satisfied her that Mr T lost money as a result of an authorised push payment scam. She noted that there was no evidence of what had been agreed between the parties and that Mr T had an existing relationship with both O and S.

Mr T didn't agree with the investigator's findings and asked for a final decision, so his complaint has been passed to me. He said that O sent him documents (which Mr T provided) which purported to show gold had been shipped but this hadn't happened – meaning he was the victim of a scam. Mr T also provided an article from a West Africa newspaper which says that O and another were in court in relation to the theft of 100kg of gold. Finally, Mr T said that HSBC didn't do enough to protect his funds.

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.

In deciding what's fair and reasonable, I am required to take into account relevant law and regulations, regulators' rules, guidance and standards, and codes of practice; and, where appropriate, I must also take into account what I consider to have been good industry practice at the time.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – in other words on what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

I'm sorry to hear that Mr T has lost money in these circumstances. But this in itself doesn't mean that HSBC is responsible.

The CRM Code doesn't apply in this case as it doesn't cover international payments. In any event, as I believe Mr T has a civil dispute, it wouldn't apply.

In broad terms, the starting position at law is that a bank such as HSBC is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

In this case, I'm not satisfied that the evidence Mr T has provided demonstrates that it's more likely than not he was fraudulently induced to make the payments to M. The evidence doesn't demonstrate what the parties agreed at the time the payments were made, or S' intentions in taking the payments. There is also no evidence that whatever the agreement was, it was breached. No communications between Mr T and S or O, which might clarify these matters, have been supplied.

I agree that documents provided by Mr T relate to gold being shipped to him in the UAE. But there is no evidence in the form of messages or emails to show this didn't happen or, if it didn't, why that was. I also note that Mr T had existing relationships with O and S. Based on what has been provided, it is just as likely that a business deal has gone wrong or relationships between the parties have broken down and Mr T hasn't received what he expected. These circumstances amount to a civil dispute between the parties.

I've also considered the article Mr T has sent in relating to S appearing in court in relation to the theft of 100kg of gold before Mr T's payments were made. Whilst the article casts doubts on S' integrity, I don't consider that it demonstrates Mr T's funds were taken fraudulently.

I'm aware that HSBC spoke to Mr T when he made the £10,000 payment to M. When asked the purpose of the payment, Mr T said he was setting up a business and he later confirmed that it related to a shipment to UAE. He also confirmed that he had known the payee since 2012.

It's arguable that HSBC should have asked Mr T some additional questions about the transaction to better understand the circumstances, but even if it had I don't consider that Mr T's loss would have been prevented. Mr T knew and trusted both parties involved and had received certain documentation that satisfied him the business opportunity was legitimate.

I'm persuaded that if further questions had been asked, Mr T's responses would not have led HSBC to be concerned he was at risk of harm from fraud.

Mr T didn't contact HSBC until 2023. At this stage it tried to recover Mr T's funds but didn't get a response from the receiving bank. Given the time that had elapsed since the payments were made it was highly unlikely any funds remained. I don't think there was anything more HSBC could have done.

Overall, whilst I'm sorry to hear Mr T has lost money, I can't fairly hold HSBC responsible.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 23 April 2025.

Jay Hadfield
Ombudsman