

The complaint

Ms L is being represented by a claims manager. She's complaining about HSBC UK Bank Plc because it declined to refund money she lost as a result of fraud.

What happened

Earlier this year, Ms L fell victim to a cruel scam. Someone she'd recently met online and thought she was in a relationship with introduced her to a job opportunity that required her to pay money to obtain access to tasks she would then complete in return for payment. Ms L attempted to make the following payments to other individuals' accounts from her HSBC Global Money account in connection with this scam:

No.	Date	Amount £	Notes
1	18 Jan	1,900	Completed
2	19 Jan	1,500	<i>Rejected by bank</i>
3	23 Jan	6,500	<i>Rejected by bank</i>
4	26 Jan	6,500	Completed
5	5 Feb	12,000	Completed
6	20 Feb	15,500	Completed

Ms L also made a payment of £391 to a cryptocurrency exchange on 13 March, which I understand was part of a separate scam. I haven't considered this payment here because it wasn't included in Ms L's complaint to HSBC or in its final response. If Ms L wishes to pursue concerns about that payment, she'd need to complain to HSBC in the first instance.

Our investigator didn't recommend the complaint be upheld. She took account of the interventions attempted by HSBC and noted that Ms L gave inaccurate information about the reasons for the payments. She felt this meant HSBC wasn't in a position to identify she was being scammed or what type of scam was taking place. She did say HSBC should have tried to find out more about payment 5 but didn't think any intervention at this point would have made a difference based on how Ms L routinely answered questions the bank posed.

Ms L didn't accept the investigator's assessment and her representative made the following key points:

- The bank needed to ask open, probing questions and should have been able to identify fraud was taking place.
- The interventions carried out by the bank weren't adequate in the circumstances.
- At the time Ms L was trying to put these payments through, she also spoke to staff at a branch in a different country and we have no record of this meeting to demonstrate an appropriate process was followed.

The complaint has now been referred to me for review.

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 overall conclusions as the investigator, and for broadly the same reasons. I haven't necessarily commented on every single point raised but concentrated instead on the issues I believe are central to the outcome of the complaint. This is consistent with our established role as an informal alternative to the courts. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

In broad terms, the starting position at law is that a bank such as HSBC is expected to process payments a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, '*authorised*' essentially means the customer gave the business an instruction to make a payment from their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went.

In this case, there's no dispute that Ms L authorised the above payments.

There are, however, some situations where we believe a business, taking into account relevant rules, codes and best practice standards, shouldn't have taken its customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before making the payment.

HSBC also has a duty to exercise reasonable skill and care, pay due regard to the interests of its customers and to follow good industry practice to keep customers' accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for payments which might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether HSBC acted fairly and reasonably in its dealings with Ms L.

The payments

One of the key features of this type of account is that it facilitates money transfers, often involving large amounts and sometimes to overseas accounts. The amount involved in payment 1 was relatively low and considering what HSBC knew at the time, I'm not persuaded it ought to have been concerned about it.

When Ms L tried to make payment 2 to the same payee on 19 January, HSBC spoke to her by phone before it was processed. During the call, the agent explained that the payment was being held due to fraud and scam concerns and asked a number of questions about the reasons for the transfer. Ms L didn't provide accurate information. She told the agent she was sending money to a friend who lived overseas and was buying furniture on her behalf before arranging shipping. When asked, she explained that she'd known her friend for several years and had met him many times. Ultimately, HSBC decided to reject the payment and the agent advised Ms L that she'd be better off buying the furniture directly to remove any risks and avoid shipping costs.

When Ms L tried to make payment 3 a few days later, this was also rejected. Ms L called HSBC's fraud team as requested, but she and the agent struggled to understand each other so the agent suggested she visit a branch to discuss the payment. At the time Ms L was

overseas and the call evidence provided shows she did indeed call into a branch in the country where she was at the time. Unfortunately there's no record of what was discussed. But we do know that her account access was unlocked and she was able to successfully make the payment of £6,500 (payment 4).

I understand there was no intervention attempted by HSBC before processing payment 5 on 5 February. But payment 6 was again held pending a conversation with its fraud team. During that conversation, Ms L was asked about the reason for the payment and again she didn't provide accurate information. Instead of revealing the true purpose, she told the agent she was repaying a friend. When asked, she said she'd known her friend for many years and had been with them in person the previous month. Following this conversation, HSBC processed the payment.

Having considered what HSBC knew about the payments 2 to 6, I think it ought to have had some concerns that Ms L was at risk from fraud and the interventions it did carry out suggest HSBC would broadly agree with this.

I've considered HSBC's interventions carefully, including listening to recordings of its agents' telephone conversations with Ms L. In my view, the agents asked appropriate questions about what the payments were for. They also asked wider questions, for example about where recent credits into her account had come from. If Ms L had answered those questions correctly, it might have been possible for the bank to identify the payments were likely to be part of a scam. But she instead said she was paying money to a friend who she'd met in person and had known for a long time. And instead of saying the payments were to obtain online work, she said she was paying her friend back, including for goods purchased on her behalf.

I think HSBC asked broadly the right questions of Ms L but, in view of the answers it received, I don't think it was in a position to identify that she was probably being scammed or what type of scam was taking place. Beyond general warnings about fraud and scams and how difficult it can be to recover money once paid, I don't think the bank could reasonably have been expected to do more.

Armed with the information it had, I think the interventions carried out by HSBC were appropriate to the apparent risks associated with the relevant payments. I don't agree with Ms L's representative that it should have called her into a branch and enacted the banking protocol. While she was referred to an overseas branch, this was only because she and the agent struggled to communicate by phone. It's unfortunate we don't have records of that branch meeting, but based on the answers Ms L consistently gave when asked about the payments she was making, I think it's unlikely she'd have provided information that allowed the bank to identify that a scam was likely taking place.

I've said above that I think HSBC should have questioned payment 5 before this was put through and that doesn't appear to have happened. But in light of the interventions that did take place and that we do have records of, again I think it's unlikely Ms L would have provided accurate information that would have enabled the bank to bring the scam to light.

In reaching my conclusions on this case, I also need to take into account that before she began making payments to the scammer from her HSBC account, Ms L also made a number of payments from an account with another bank. The other bank also attempted similar interventions but Ms L consistently provided incorrect information that meant it didn't identify she was being scammed or the nature of the scam either. In one of her calls with that bank, Ms L appeared to become frustrated and said she'd start using another bank if it wouldn't follow her instructions and that's what she did, switching to make payments from HSBC instead. Based on all the available evidence, it seems Ms L was firmly under the spell of the

scammer at this point. She appears to have been determined to make the payments one way or another and I think she'd still have wanted to go ahead whatever type of intervention had taken place.

I want to be clear that it's not my intention to suggest Ms L is to blame for what happened in any way. She was under the spell of a fraudster who was clearly adept at manipulating victims. I can understand why she acted in the way she did. But my role is to consider the actions of HSBC and, having done so, I'm not persuaded these were the cause of her losses.

Recovery of funds

I've also looked at whether HSBC took the steps it should have once it was aware that the payments were the result of fraud. HSBC says it did try to recover the money but was unable to do so.

I understand Ms L first notified HSBC of the fraud on 30 March, more than a month after the last payment. It's a common feature of this type of scam that the fraudster will move money very quickly to other accounts once received to frustrate any attempted recovery and I don't think anything that HSBC could have done differently would likely to have led to those payments being recovered successfully after this period of time.

In conclusion

I recognise Ms L has been the victim of a cruel scam and I'm sorry she lost such a large amount of money. I realise the outcome of this complaint will come as a great disappointment but, for the reasons I've explained, I don't think any further intervention by HSBC would have made a difference to the eventual outcome and I won't be telling it to make any refund.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 15 January 2025.

James Biles
Ombudsman