

The complaint

Mr P is unhappy that HSBC UK Bank Plc has decided not to refund him, after he was the victim of a scam

What happened

Mr P says he found a company online, that offered to help secure work visas for his friends and relatives. He says he found reviews about them and checked out their Companies House entry and it all seemed legitimate.

Mr P made 20 payments between July and September 2023, totalling £9,980. Mr P said he did not receive any of the services he paid for and reported it as a scam to HSBC.

HSBC said it gave Mr P effective warnings of the risks of scams, prior to him making the payments. It also said Mr P could have done more to protect himself, such as independently researching the company to ensure they were genuine, and questioning where he was sending the funds. It said it considered his claim in line with the CRM code but was not offering him a refund.

HSBC requested the funds back from the beneficiary accounts, but were advised no funds remained.

One of our investigators looked into things. She asked questions related to the following information that Mr P had provided.

- Correspondence between Mr P and the scammers refer to “clients” of Mr P’s. Mr P’s correspondence with the scammer also shows he would receive commission payments for each client. Mr P said he didn’t apply for the visa’s in a professional capacity.
- The investigator asked what Mr P thought about having to pay two different payees, that were both companies and appeared unrelated to the company he thought he was dealing with. Mr P says he was told the two different payees were used by the individual he’d been dealing with, to receive the payments. And, that he sent the payment to these account holders, as it was agreed that they would get the employer to recruit each applicant. But Mr P has not provided evidence that this was discussed or that supports that this was the explanation given.
- When asked about the largest credits, that funded the scam payments, Mr P said one of them was a loan from a friend to renovate a property and the other was a loan to help him move, as he had to leave his property, but he then decided to use the funds for the visa’s instead.

The investigator concluded that she wasn’t satisfied Mr P had suffered a loss. Mr P couldn’t provide sufficient detail, or satisfactory evidence, to explain the large credits coming into his account, which funded the scam payments. She said, if Mr P could provide additional information, she would consider the matter further.

After reviewing some additional information from Mr P, she was not satisfied that Mr P could evidence why he received the credits or if the money borrowed had been paid back.

But she also went on to say even if she had been satisfied the loss was his, she wouldn't be upholding the complaint as Mr P did not take enough care when making the payments. He paid two different payees, which didn't match the company he was dealing with. He didn't receive a contract, or any persuasive documentation and the process differed from official guidance on visa applications. She said the payments didn't require warnings from HSBC, because they were low in value and spread out over a three-month period. She concluded HSBC didn't need to refund Mr P.

Mr P didn't accept the investigators findings. He said he had suffered a loss, he invested all his earning and proceeds from his business, which is based abroad with the intention of helping people. He said did his due diligence and verified the business he dealt with, but it was a sophisticated scam, he verified them online and paid UK bank accounts. The impact of the scam has been significant, and he had to sell his business (based abroad) and redirect his income. The loss is personal and has impacted his well-being as well as his finances.

The investigator asked for any evidence to support Mr P's claims that he sold his business. Mr P has provided any further evidence or comments. But as the complaint couldn't be resolved it's been passed to me to consider.

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 come to the same conclusions as the investigator for largely the same reasons. I'll explain why.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards. codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

HSBC is a signatory of the Lending Standard Board's Contingent Reimbursement Model Code (the LSB's CRM Code). And has therefore adhered to agree to its principles. The CRM Code requires firms to reimburse victims of APP Scams in all but a limited set of circumstances.

Like the investigator, I'm satisfied that HSBC didn't need to consider these payments as unusual or suspicious and didn't need to intervene with them at the time Mr P made them. Mr P regularly used his account, from the point it was opened six months before the scam payments. With funds coming in, from various sources, new payees being set up and some large value debits on the account as well. The value of the individual payments is low, with each being under £500, and, as pointed out by the investigator, although there are twenty payments in total, they are spread out over a three-month period. So, I'm satisfied that HSBC didn't need to intervene with the payments.

HSBC has said it provided warnings at the time the payments were made. It hasn't provided evidence of these but given what we know and the requirements placed on banks (as set out above) its likely that these were new payee warnings – and, I'm persuaded those would have been proportionate in the circumstances.

I've made the same finding, that Mr P did not have a reasonable basis of belief that the payee was legitimate, when making these payments. I say this because:

- Mr P says he "checked them out online" but there appears to be very little information about the company he thought he was dealing with, both now and at the time. I can see it had a website at the time (no longer in existence) and mixed reviews online but that's the only information that appears to have been available. And from what I've seen the reviews for the company did not start until August 2023 – after Mr P had already been paying for and using its services. So I haven't been persuaded that reviews of the company, were an influencing factor for Mr P when deciding to initially make payments.
- Mr P doesn't appear to have received any paperwork or official documents.
- Mr P has said there was an explanation for the payments being made to two separate and non-related payees. But I can't see that this was discussed from the emails Mr P has provided. And these explanations are not detailed enough nor do they really explain the anomaly of the payees in a satisfactory way. Mr P ought to have considered this a red flag.
- Mr P says he checked Companies House, but I can't see that this company has ever had an entry, so it's not clear if Mr P did make this check at all, or perhaps found a different entry – if so, he's not explained what he saw at the time he claims to have made these checks.
- Overall, I haven't seen anything persuasive that would suggest Mr P was satisfied, so far as he reasonably could be, that this was a legitimate firm before he started paying for its services – especially given the red flags I have mentioned above.

I'm not satisfied that the loss here is Mr P's. He's provided very little evidence to support his position about the source of the funds. I'm not persuaded that they were borrowed for a house and then used for the visa purchases instead. Although Mr P can provide some evidence that he received a section 21 notice for his tenancy to end in June 2023 he's still at that address now, so it's not clear why those funds were received and why they were then used for these visa applications. He also can't provide any evidence regarding the exchanges of these finances with the friend and Mr P received other credits into the account from the same payer, and other sources including cash deposits and payments from an account in his name but hasn't detailed the source of those funds either. So overall I haven't seen persuasive evidence for the source of these funds and Mr P has been given multiple opportunities to provide further evidence and information when asked specifically about credits into his account but hasn't provided anything persuasive or of significant detail.

The correspondence with the scammers would also suggest Mr P was corresponding on behalf of clients and was eligible to receive a commission for each visa he applied for. Although Mr P has said these were all friends and family, again, he has not provided any evidence to support that was the case. And if Mr P was making these applications on behalf of others and the funds used were not his, or he was paid by those applying for the visa's, then he's not suffered a loss.

So, in conclusion I'm not satisfied that Mr P hasn't provided persuasive evidence that the loss suffered was his. And if even if he can provide this, I agree with the investigator that I don't think HSBC needs to refund Mr P for his losses when applying the CRM code to this particular set of circumstances.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 16 June 2025.

Sophia Smith
Ombudsman