DRN-5349395

The complaint

Mrs B has complained that HSBC UK Bank Plc ("HSBC") failed to protect her from falling victim to an impersonation scam, and hasn't refunded the money she lost.

What happened

I issued my provisional decision ("PD") earlier this month explaining why I intended to uphold Mrs B's complaint. I gave both parties the opportunity to respond to my provisional findings, which both now have. Mrs B agreed with my PD but HSBC disagreed – and provided further comments.

I've included an extract of my PD below, followed by HSBC's additional points.

> **What happened**
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> The background of this complaint is already known to both 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.
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> Mrs B has used a professional representative to refer her complaint to this service. For the purposes of my decision, I'll refer directly to Mrs B, but I'd like to reassure Mrs B and her representative that I've considered everything both parties have said.
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> Mrs B has explained that in January 2024 she was looking to purchase a boat and she found one overseas that met her requirements. She contacted the alleged agent selling the boat ("the scammer") and she says they answered her questions promptly and informatively, and ultimately she decided to purchase the boat.
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> Mrs B's husband was in regular contact with the scammer, asking several detailed questions over various emails about the boat, its service history, and the maintenance and repairs it had received. The scammer appeared to be someone who was well-versed in the maritime field , giving informative and relevant answers, which added to the persuasiveness of the scam. However Mrs B also says her husband further verified the legitimacy of the sale by checking the company's website and its other listings, which all appeared genuine. He also spoke to the agent by phone, using the phone number found on the emails between him and the agent, believing this to be the official and most reliable number for the company.
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> Mrs B made arrangements to travel to view the boat on 8 February 2024 and before doing so, on 23 January 2024, she made a deposit payment of €8,000 which was 10% of the purchase price. A week later she was told she needed to pay a further 10% for additional insurance, so after some further questions, she made another payment of €8,000 on 30 January 2024. The two payments made totalled £13,721.40.
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> When Mrs B arrived to view the boat she was unable to locate or contact the representative she believed she was meeting. Upon discussing the matter with the company's office at the marina Mrs B realised the scammer had used the legitimate company's identity to defraud her into believing they were the seller of the boat. Mrs B reported the scam to HSBC but HSBC declined to refund the payments as Mrs B had authorised them, and it suggested she contact the beneficiary's bank to raise the matter directly.

Mrs B made a complaint to HSBC on the basis that it didn't provide her with any effective warnings or interventions before she made the two payments. HSBC didn't uphold Mrs B's complaint and in its response it noted that the payments weren't flagged as suspicious by its fraud detection systems. It also said that Mrs B had authorised the payments, and as such, it was required to make them in line with Mrs B's instructions. Finally, it said that as the funds were sent overseas there was no protection in place to offer Mrs B a refund.

Mrs B remained unhappy so she referred the complaint to this service.

Our investigator considered everything and didn't think the complaint should be upheld. She explained she didn't think the payments were particularly unusual or that HSBC ought to have been suspicious of the pattern in which they were made.

As Mrs B didn't accept the investigator's opinion, the case has been passed to me to make a decision.

What I've provisionally 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'm currently minded to reach a different outcome to our investigator, so I'm proposing to uphold the complaint. I'll explain why.

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 Mrs B authorised these payments from leaving her account. It's accepted by all parties that Mrs B gave the instructions to HSBC and HSBC made the payments in line with those instructions, and in line with the terms and conditions of Mrs B'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.

I'd like to start by explaining that I've seen Mrs B's reference to HSBC's obligations under the Contingent Reimbursement Model ("CRM") Code. But section DS2(1) (a) of the CRM Code explains that the CRM Code applies to payments between GBP-denominated UK-domiciled accounts. So the CRM Code doesn't apply in this case, as the receiving account was a Euro-denominated account located outside of the United Kingdom.

The starting point in a case like this is whether the payments made are unusual – and therefore, whether the bank ought to have been suspicious that Mrs B might've been at risk of financial harm. Whilst I accept HSBC isn't expected to review all transactions individually before they're made, some of the characteristics I'd have expected HSBC's fraud detection systems to look out for are unusually high-value payments, irregular spending patterns, and new or high-risk payees.

Mrs B has explained that her "Global Money Account" where the payments were made from was opened in January 2024, so there's not any available account history from before the scam took place.

In the absence of the above, I've reviewed the transactions in the six months prior to the scam payments on Mrs B's HSBC current account, to gain an understanding of Mrs B's general spending patterns. Having done so I'm persuaded that the two payments of €8,000 (or around £6,800) each were sufficiently unusual that HSBC ought to have been on notice that Mrs B may've been at risk of financial harm.

In general, the transactions on Mrs B's current account are for low values, and rarely exceed a few hundred pounds. There are three larger payments; one for £5,385 in July 2023 and one for £2,391 in August 2023, which appear to be payments to Mrs B's HSBC credit card, and one to a different payee in December 2023 for £1,854. But the scam payments were significantly larger than these payments, and made within a week of each other, and made to a new beneficiary overseas. So I'd have expected HSBC to take note of these factors and satisfy itself Mrs B wasn't at risk of harm.

I'm mindful that the fact that Mrs B had opened the Global Money Account may've led HSBC to believe the account would be used in a different way compared with a regular current account – for example, for one-off larger foreign transactions, where the account may've benefited from preferential exchange rates or lower fees. So I've kept this in mind when considering what a proportionate intervention might've been, and at which point it ought to have happened.

What did HSBC do to intervene, and was it enough?

HSBC has provided screen shots of the payment journey Mrs B would've seen when she created the new payee and made the two payments using her mobile phone.

The screen shots show that when Mrs B added the payee she'd have seen a general fraud warning message which said: "Be careful. Don't fall victim to a scam. How well do you really know this payee? Why have you been asked to send this money? How were you contacted? Does it make sense? If you're unsure, you can chat with us in the support tab". The screen then provided the option to "Continue and add payee" or "Go back and think".

I haven't been made aware of any warning messages or interventions that Mrs B would've seen after the payee had been created – so, when the second payment was made.

Having considered everything here, I'm satisfied that the way HSBC intervened for payment one, at the time the payee was created, was proportionate. As I've already mentioned, I think it was fair to some extent for HSBC to expect the Global Money Account to be used differently to a regular current account, so the generic scam warning that HSBC gave for the first payment introduced a reasonable amount of friction, allowing Mrs B the opportunity to reconsider before making the payment, but without unnecessarily inconveniencing her or impairing her ability to make it.

The second payment was for the same value as the first and was the second within the space of a week. I'm not aware that HSBC asked any questions as to the purpose of the payment, nor that it gave any form of warning or scam advice before the payment was made.

Given the factors I've already outlined, plus the exacerbating features of the payment being the second overseas payment in a relatively short space of time (although I appreciate this wasn't as rapid as seen in some scams) and resulting in over £13,000 being sent to the same payee within a week, I think HSBC should've intervened. HSBC ought to have asked Mrs B questions to understand the circumstances behind the payment, with a view to giving her a more tailored warning related to the purpose of the payment, which in this case was a fraudulent purchase, often referred to as an impersonation scam. Given that this scam displayed some well-known features of impersonation scams, a warning of this nature would've likely resonated with Mrs B, and it's likely the scam would've been uncovered.

Although I understand Mrs B might've been reluctant not to send the second payment for fear of losing the money she'd already sent to the scammer, the emails I've seen between Mrs B's husband and the scammer indicate that they already had some doubt when they were asked to make the second payment. Whilst I can't say for certain how Mrs B would've reacted to a warning at this point, I think it's likely a tailored warning along the lines of what I've described above would've given Mrs B and her husband confirmation that their suspicions were correct, and that the situation they found themselves in might not have been exactly as they thought.

With all of the above in mind I currently think HSBC ought to have done more to intervene before Mrs B made the second payment, and because it didn't, it's responsible for the resulting loss of that payment. Had it intervened as I've described, I think it's likely the second payment wouldn't have been made.

Is Mrs B responsible for any of her losses?

In considering whether HSBC met its obligations to protect Mrs B from financial harm, it's also fair for me to consider whether Mrs B's action or inaction contributed to, or caused, her loss.

Having considered the circumstances surrounding Mrs B's loss, I don't consider it fair to apply a deduction for contributory negligence in this case. Whilst I acknowledge that there were some warning signs, I'm persuaded that the sophisticated nature of the scam and the steps Mrs B took to verify the legitimacy of the company mitigate any potential contributory responsibility on her part.

Mrs B was the victim of an impersonation scam, in which the scammer convincingly posed as a genuine business. She took reasonable steps to verify the legitimacy of the transaction, including checking the website and speaking with the fraudster on the phone using a number she found on emails. Importantly, she was unaware that the website she checked was fraudulent, and I agree that the terminology used by the scammer throughout their email correspondence was professional and came across in a way I'd expect from someone working in the industry. Given these factors, it is understandable that she believed the transaction was genuine.

Additionally, Mrs B questioned the legitimacy of the second (insurance) deposit before making the payment. Whilst, with hindsight, the fraudster's explanation may seem implausible, at the time, the responses were broadly reasonable. This persuades me that Mrs B exercised some degree of caution and was ultimately deceived by the fraudster's convincing responses, rather than ignoring a clear warning sign that she should've taken notice of.

I recognise that there were some red flags, such as the payment being made to a personal account and the account name not matching the business name. Mrs B also questioned why a deposit was required just to view the boat and why an additional 10% was needed for insurance. But she was provided with explanations that, in the circumstances, she found credible. Given the broader context of the scam, I don't consider these factors sufficient to justify HSBC reducing its refund on the basis of contributory negligence.

Overall, I'm satisfied that Mrs B was the victim of a highly convincing scam, and she took reasonable steps to verify the transaction. As such, I don't consider it appropriate to apply a deduction for contributory negligence in this case.

Recovery of the funds

I've seen that when HSBC was made aware of the scam it contacted the beneficiary's bank to establish whether any funds remained, that could be recovered. However it was advised that all funds had been withdrawn, so unfortunately, HSBC wasn't able to recover any of what Mrs B lost.

As the funds were sent overseas HSBC was only required to attempt recovery on a "best endeavours" basis – meaning any attempt wasn't guaranteed. I'm satisfied it did that, and there's nothing more I'd have expected it to do.

In response to my PD HSBC made the following points:

New account usage

HSBC lacked transaction history to assess normal activity, and large currency payments are typical for GMA accounts.

Assessment of activity

Reviewing only six months of statements is inconsistent; a 12-month review would show high-value payments, making the transactions less unusual.

Mrs B's likely actions

Mrs B had concerns but proceeded with payments. Her representative confirmed she found the request reasonable, so intervention was unlikely to change her actions.

Experience with boat purchases

Given her past boat purchases, Mrs B should have questioned an extra 10% deposit for insurance on a boat she hadn't agreed to buy.

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 carefully considered the additional points raised by HSBC I'm still upholding Mrs B's complaint. I'll address each point in turn, in the order set out above.

New account usage

As I set out in my PD, I accept that GMA accounts may be used for different types of transactions compared to everyday current accounts, but this doesn't absolve HSBC of its regulatory duty to monitor for fraudulent activity. As a regulated bank, HSBC has an obligation under the relevant financial regulations and industry guidance to detect and prevent fraud where possible. This includes identifying patterns of unusual or high-risk transactions, particularly where there are known fraud risks associated with certain types of payments. The fact that a GMA is commonly used for large international transfers does not mean HSBC can disregard potential warning signs of fraud altogether. It must still assess transactions in context and take action where necessary. And as I previously set out, there were other factors present, plus the fact that HSBC had knowledge of Mrs B's typical account usage of her current account, which it could and should have used to understand how she generally spent money.

Assessment of activity

The service's approach is to review six months of account history to assess typical usage. Whilst I acknowledge HSBC's point that in some cases a 12-month review may have been used, six months is generally sufficient to identify established spending patterns and highlight transactions that are out of character. HSBC is expected to have adequate systems and controls in place to detect suspicious activity. Even if a longer review period might have provided further context, the six-month history provided enough evidence to suggest the payments in question were not typical or regular for Mrs B. It's also relevant to note that this point alone is not the only deciding factor in my decision, as other indicators of potential fraud were also present.

Mrs B's likely actions

HSBC has a duty to protect its customers from financial harm, including intervening when transactions appear suspicious. HSBC's point that Mrs B found the request for an additional deposit reasonable doesn't automatically mean she would've ignored an intervention by HSBC. HSBC is expected to take appropriate action when warning signs of fraud arise, such as contacting the customer, asking additional questions, or providing relevant fraud warnings, and there's no evidence to suggest that Mrs B would've proceeded with the payments had HSBC properly intervened. Many scam victims initially believe they are making legitimate payments, but upon receiving clear and well-timed warnings from their bank, they often recognise the fraud and stop. And without evidence to suggest otherwise, I think it's likely that's what would've happened here.

Experience with boat purchases

Mrs B did question the extra 10% deposit, which suggests she had some concerns about it. But as I explained in my PD, given the sophistication of the scam and the persuasiveness of the fraudster she ultimately found the explanation convincing. I'd expect HSBC to consider the wider context of fraud when assessing customer vulnerability as many scams rely on psychological manipulation, pressure, and social engineering tactics to override a victim's usual decision-making processes. With hindsight, it may be easier to recognise the warning signs in this scam, but that doesn't mean Mrs B was reckless or ignored those signs at the time she agreed to pay the additional 10% deposit. HSBC should've identified the red flags and acted to prevent the payments, and I don't believe the responsibility lies solely with Mrs B to have detected and prevented the fraud herself.

It follows that my decision remains unchanged from my provisional findings, and I uphold this complaint.

Putting things right

The put things right I require HSBC to refund the second payment, with the value of £6,847.81. HSBC should add 8% simple interest to this amount, from the date it left Mrs B's account until the date of settlement*.

*If HSBC considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs B how much it's taken off. It should also give Mrs B a tax deduction certificate if she asks for one.

My final decision

I uphold Mrs B's complaint against HSBC UK Bank Plc and require it to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 24 March 2025.

Sam Wade
Ombudsman