

The complaint

Mr M and Ms N have complained that HSBC UK Bank Plc (“HSBC”) failed to protect them from falling victim to an impersonation scam, and hasn’t refunded what they lost.

What happened

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.

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.

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

Mr M and Ms N have explained that on 22 March 2024 they believed they were repaying a loan to Ms N’s father when Mr M made a payment of \$20,000 to him. They had been discussing this repayment via email and followed the payment instructions provided, sending the money to what they thought was Ms N’s father’s financial adviser. But unknown to Mr M and Ms N at the time, Ms N’s father’s email account had been hacked, and they were in fact communicating with a scammer. After making the payment, they received an email confirming receipt, which reinforced their belief that everything was in order.

About a week later, Mr M and Ms N received another email, again appearing to come from Ms N’s father, asking for a short-term loan of \$20,000. As this wasn’t unusual Mr M and Ms N agreed to help. On 9 April 2024, they made the payment to another account, believing it belonged to MS N’s father’s broker. Again, this was all done via email, and nothing about the request seemed suspicious to them.

The payments were made from Mr M and Ms N’s HSBC account, via another payment service provider, which was used to convert them into US dollars. They were then sent on to the scammers.

Later that day, Ms N spoke to her father and discovered that he hadn’t requested the payments and was unaware of any emails about them. It was only then that they realised his email account had been compromised and that Mr M and Ms N had been dealing with a scammer. Ms N reported the scam to HSBC the same day, and HSBC directed her to contact the organisation where Mr M’s other account was held, where the payment was sent to.

The payments relevant to Mr M and Ms N's complaint are as follows:

Date	Amount
22 March 2024	£15,940
9 April 2024	£15,846
Total	£31,786

Mr M and Ms N made a complaint to HSBC on the basis that they rarely send large payments to Mr M's other account, so it ought to have been suspicious when they made two large payments to it in relatively quick succession. They said if HSBC had asked them further questions about the payments it would've uncovered the suspicious circumstances surrounding them, and it would've uncovered the scam, preventing their loss. HSBC didn't uphold the complaint and in its response it said Mr M and Ms N had sent the funds to Mr M's own account with another payment institution, so the fraud didn't take place when the funds left HSBC. It also said it intervened before Mr M and Ms N made the first payment, and Mr M confirmed he was sending the funds to his own account to convert them into US dollars, so the payment was processed.

Mr M and Ms N 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 that HSBC had discussed one of the payments with Mr M before it was made, and Mr M confirmed he was making it to his own account, of his own free will. So he didn't think HSBC missed the chance to stop the scam from taking place.

Mr M and Ms N didn't accept the investigator's opinion so the case has been passed to me to make a decision.

What I've decided – and why

I've considered all available evidence and arguments to decide what's fair and reasonable in the circumstances of the complaint.

I'm sorry to disappoint Mr M and Ms N 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 M and Ms N authorised these payments from leaving their account. It's accepted by all parties that Mr M and Ms N 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 M and Ms N'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.

Although it hasn't been raised within this complaint, I'm aware that the first payment was returned to Mr M from his other account provider as it was able to recover it in full. But as this was some weeks after the scam took place, I've considered both payments and their surrounding events in reaching my decision.

Should HSBC have intervened before the payments were made?

I've carefully reviewed Mr M and Ms N's account transaction history to understand whether the scam payments ought to have been treated as suspicious by HSBC. That's to say, whether they were out-of-character, or showed some other risk factors that HSBC should've acted upon before allowing them to be made.

Having done so I'm satisfied that the payments were both out-of-character when considered alongside the previous six months' account history for Mr M and Ms N. Their account was generally used for day-to-day spending, with most payments being low in value and made with a debit card. So when Mr M and Ms N attempted to make the first bank transfer of over £15,000 I'd have expected HSBC to detect this as suspicious. And based on the value of the payment it would've been proportionate for HSBC to carry out a human intervention by speaking to Mr M or Ms N to understand more about the circumstances.

I also think this is the case for payment two, which was for a similar value to payment one, and to a new payee.

Did HSBC intervene, and if so, how?

HSBC says it intervened before Mr M and Ms N made the first payment by speaking to Mr M on the phone. I've listened to a recording of that call and although I won't transcribe it in full here, I've included a summary of it below.

Mr M called HSBC after receiving a message to verify the payment. HSBC firstly confirmed some security details and verified Mr M's identity before explaining that the payment had been held for a fraud check. When asked about the reason for the payment, Mr M initially questioned whether he was obliged to provide that information. HSBC explained why it was asking, and Mr M then confirmed that the payment was being sent to his own account at another business. HSBC again told him that the fraud system had triggered a check, so it needed to go through some details to ensure the payment wasn't linked to a scam.

During the call, Mr M appeared irritated and interrupted HSBC several times to assure it he was making the payment of his own free will and that it was legitimate. HSBC asked whether Mr M had received any suspicious calls or was currently on the phone with anyone else, which he confirmed wasn't the case, and it then clarified that HSBC would never ask him to transfer money to a "safe account". HSBC then asked whether anyone had instructed Mr M to make the payment and he explained that he was transferring the money to his own account at another business to be converted into dollars. He also mentioned that while he had previously made payments to this account from his HSBC US dollar account, this was the first time he was doing so from his HSBC UK account.

HSBC asked whether this would be a one-off payment, and Mr M confirmed that it would. It also enquired about how long he had held the other account, to which Mr M responded that he had had it for years and had opened it himself. He also confirmed that he had an app to track payments. HSBC then warned him that if the payment was linked to fraud or a scam, it could be difficult to recover the money. Mr M said he understood. The bank asked him once more if he was happy to proceed with the payment based on the questions he'd been asked, and he confirmed that he was. After a brief discussion about some unrelated transactions, HSBC released the payment.

Turning to the second payment, HSBC didn't intervene before this was made. As the value of the payment was similar to payment one, and it was made to another new payee, I again think it would've been proportionate for HSBC to speak to Mr M or Ms N before the payment

was released, with a view to understanding the circumstances of the payment and giving them an appropriately tailored scam warning.

Did HSBC do enough to protect Mr M and Ms N from financial harm?

Having considered everything carefully, including the content of the phone call between HSBC and Mr M, I'm satisfied that HSBC's intervention was proportionate in the circumstances.

I say this because HSBC asked clear questions to understand the circumstances surrounding the payment, and Mr M gave it honest answers based on what he believed to be the situation he found himself in. As he'd held his other account for several years and had made payments to it previously, I don't think HSBC ought to have been particularly concerned about the situation.

Despite this, I do note that HSBC expressed its concern around scams in general and gave Mr M a warning about the risk of losing the funds if the payment turned out to be related to a scam. It didn't appear that Mr M or HSBC were overly concerned about scams and given the facts surrounding the case, I think that was reasonable.

With all of this in mind I don't think HSBC missed the chance to uncover the scam, because Mr M didn't conceal any facts that HSBC ought to have uncovered but failed to do so, nor was there anything concerning revealed by Mr M that HSBC ought to have probed further. So I don't hold HSBC responsible for the loss caused by payment one.

Although HSBC didn't intervene before Mr M and Ms N made the second payment, and I think it should have, I don't believe that this failure prevented the scam from being uncovered.

If HSBC had intervened by speaking to Mr M or Ms N before payment two was made, it's likely they would have provided the same explanation that Mr M did during the first call. I'm persuaded it's likely they'd have confirmed that they were sending money to Mr M's account elsewhere to convert it into US dollars before transferring it to Mr M's father-in-law.

At that point, there'd have been no reason for them to suspect they were being scammed, the scammer (on behalf of Mr M's father-in-law) had confirmed receipt of payment one, and the fraud wasn't discovered until after the second payment had already been made.

There's nothing to suggest Mr M and Ms N would've given HSBC anything but the true reason for making the payment if they'd been asked a second time, and with this in mind I'm satisfied that even if HSBC had intervened, Mr M or Ms N would've answered HSBC's questions honestly. I don't think an intervention would've uncovered the scam at that stage or been able to give Mr M and Ms N a warning that resonated with them, owing to the ingenuity of the email interception technique that had been used, making the scam seem legitimate.

So, while HSBC should've intervened before the second payment, I haven't concluded that this would've changed the outcome. I still think Mr M and Ms N would've proceeded with the payment, meaning they haven't suffered a loss that would otherwise have been avoided.

I can understand how this scam was particularly convincing for Mr M and Ms N, especially as the scammer managed to intercept a genuine email chain and continue with a conversation that was entirely credible to Mr M and Ms N. But my role isn't only to place the blame on either Mr M and Ms N or HSBC – in this case the scammers are clearly the perpetrators, with Mr M, Ms N and HSBC being duped.

So for the reasons I've explained, whilst Mr M and Ms N are clearly the victims here, I don't hold HSBC responsible for their loss.

My final decision

I don't uphold Mr M and Ms N's complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Ms N to accept or reject my decision before 9 April 2025.

Sam Wade
Ombudsman