

Complaint

Mr H and the estate of the late Mrs H complain that HSBC UK Bank Plc didn't pay a refund after it learned that Mrs R had fallen victim to a scam.

Background

The background to this complaint is familiar to both parties, so I will only provide a brief summary of the key events. In 2021, Mrs H was contacted via social media by a fraudster impersonating a well-known public figure. The fraudster claimed to be someone Mrs H had known from school, who had since become a successful musician.

Over time, they exchanged extensive messages. The fraudster asked Mrs H to keep their conversations confidential given his public status. He later claimed to be involved in a business venture and asked Mrs H to invest. She agreed, and he instructed her to purchase high-street gift cards and share the codes with him, promising that she would be repaid with interest.

Between late 2021 and early 2024, Mrs H purchased gift cards totalling over £100,000, believing she was supporting a legitimate investment opportunity. When she hesitated, the fraudster resorted to threats. In early 2024, Mrs H attempted to borrow money from a family member, at which point her daughter discovered the scam. Mrs H then reported the matter to HSBC at a local branch.

HSBC investigated but declined to issue a refund. It said that the transactions had been authorised and that it had no reason to suspect Mrs H was being defrauded. Unhappy with this response, Mrs H brought her complaint to this service. Sadly, she has since passed away, and the complaint is now being pursued by representatives of her estate. An Investigator reviewed the case and identified a point in the transaction timeline where she believed HSBC ought to have recognised the warning signs and intervened. She concluded that, if HSBC had acted at that stage, Mrs H's subsequent losses would likely have been prevented.

HSBC disagreed and argued that the Investigator's conclusions were based on hindsight. As no resolution was reached, the case has now been passed to me for a final decision.

Findings

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

The legal starting point is that a bank is generally expected to process payments and withdrawals that a customer authorises, in line with the Payment Services Regulations 2017 and the terms and conditions of the customer's account. However, that isn't the end of the matter. Good industry practice required HSBC to be alert to account activity or payments that were sufficiently unusual or out of character that they might indicate a fraud risk. Where such activity was identified, I would expect the bank to take steps to protect its customer. That could involve providing a clear warning during the payment process or contacting the

customer directly to understand the circumstances surrounding the transaction.

I've considered whether HSBC should have been concerned about Mrs H's account activity. This is a finely balanced issue, and I acknowledge the arguments on both sides. The payments in question were properly authenticated and made to well-known high street retailers. HSBC wouldn't have known what specific items were being purchased. If it had known that Mrs H was buying gift cards, it would have been more straightforward for the bank to recognise that she'd been targeted by a scam of this kind. I've also taken into account that the payments were spread over a long period, with gaps between transactions. They were also interspersed with legitimate spending, which would have made it harder for HSBC to detect a pattern indicative of fraud.

The Investigator identified 5 May 2023 as the point at which HSBC ought to have become concerned. I agree. On that day, Mrs H made four transactions to the same retailer. Three of those were for the same amount, and the intervals between transactions 1–2 and 3–4 were just one minute. This pattern of behaviour is unusual and consistent with scams where victims are instructed to purchase gift cards in rapid succession. I agree that by the time Mrs H attempted the third of those transactions, HSBC should have had concerns. It ought not to have processed that payment without first making enquiries to satisfy itself that Mrs H wasn't at risk of financial harm due to fraud.

If HSBC had contacted Mrs H at that point, I consider it more likely than not that her subsequent losses would have been prevented. While the fraudster had instructed her to keep their conversations secret, there's nothing to suggest she had been coached to respond to an intervention by the bank. Even if she had simply mentioned that she was buying gift cards, that would likely have been enough for HSBC to identify the scam. The bank could then have warned her in unambiguous terms that she'd been targeted by a fraudster, and I find it more likely than not that she wouldn't have gone on to make any of the later payments.

I've also considered whether it would be fair and reasonable to make a deduction from any compensation to reflect whether Mrs H was partly responsible for her own losses. It's relevant that Mrs H had genuinely known the celebrity being impersonated, albeit many years earlier. It may not have seemed implausible to her that he would contact her via social media. She didn't have much familiarity with social media and didn't appreciate how active fraudsters are on those platforms.

I realise that the legal principles surrounding contributory negligence consider the actions of the claimant by applying an objectives test – i.e. whether the customer's actions were more careless than those of the reasonable person. However, my role when determining this complaint is to decide what's fair and reasonable in all the circumstances. In my view, that requires me to consider Mrs H's individual characteristics, such as her age, lack of awareness about impersonation scams and her apparent naivety in respect of the use of social media.

The premise of the scam (buying gift cards to support a high-value investment) was, in my view, so implausible that it is difficult to see how vulnerability wouldn't have played a role in Mrs H being taken in by it. The idea that a successful public figure would ask someone to invest in a business venture using gift cards is highly unusual and not consistent with how a legitimate investment would work. Many people with a reasonable understanding of financial matters would recognise this as a red flag. For someone to sincerely believe that this was a genuine investment opportunity suggests a lack of familiarity with these warning signs.

In Mrs H's case, her apparent naivety around social media and impersonation scams, combined with her trust in the identity of the person contacting her, made her particularly

susceptible. It's this context that leads me to conclude that her vulnerability played a significant role in her falling victim to the scam and that a more informed or less trusting individual would likely have questioned the legitimacy of the request.

Overall, I'm not persuaded that it would be fair and reasonable for HSBC to make a deduction from the redress that is payable in this case.

Final decision

For the reasons I've explained above, I uphold this complaint. If Mr H and the representatives of the estate of Mrs H accept my final decision, HSBC UK Bank Plc need to:

- Refund all of the transactions that were made in connection with this scam from the payment of £200 at 17:10 on 5 May 2023, less the money that has already been refunded.
- Add 8% simple interest per annum to these payments calculated to run from the date they left her account until the date any settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and the estate of Mrs H to accept or reject my decision before 25 September 2025.

James Kimmitt
Ombudsman