

The complaint

M, a company, complains that HSBC UK Bank Plc failed to prevent their losses when they were victims of an email intercept scam. They'd like the losses refunded.

M has appointed representatives for this case, but for ease of reading I shall only refer to M in this decision.

What happened

In December 2023 M received an invoice, requesting a payment be made to a HSBC account, owned by someone who I shall refer to as A. This was sent and £20,874.81 credited A's account. Several days later another invoice arrived, to pay an account I shall refer to as B. This was also paid, and £33,219.88 credited B's account.

However, M quickly realised that the invoices were not genuine, and they had been the victim of fraud. They contacted their bank, who in turn contacted HSBC. No funds remained from A's account, but HSBC were able to recover £3,292.16 from B's account which was returned.

M complained to HSBC, saying that they should not have opened the accounts in question. They also felt payments were unusual enough for the recipient accounts that they ought to have questioned their account holders. And had HSBC done so, M believed there would have been enough suspicion that the scam ought to have come to light. HSBC responded to say that they had found no errors in their account opening process, but no reason to believe they should have had any concerns about the payments in. They did not offer to do anything further.

Dissatisfied with this answer M referred their complaint to our service. One of our investigators thought it should succeed in part. He reasoned that the transactions ought to have been looked at by HSBC, and as the fraud report had been made shortly after receipt of the funds, it's likely that this would have prevented any further losses. But he also thought that M had contributed to their own loss, but not following their own payment processes. So, he suggested HSBC refund 50% of the outstanding losses and add 8% simple interest to this amount.

This was accepted by M. But HSBC disagreed that the payments should have been subject to manual review, and even if they had they felt their account holders have been able to provide a credible explanation for the transactions. They didn't see that they should be liable for the loss.

As no agreement could be reached the complaint was passed to me to decide. Upon review I reached a different conclusion to the investigator. I issued a provisional decision that said:

Firstly, the investigator dealt with each payment in separately under their own references. But here I'm satisfied that the fraudulent invoices were sent from the same email address, and the whole events took place in a few days. This is all the same event – a fraudster targeted M and tricked them into making two payments to HSBC. As the complaint points for

both HSBC accounts are the same, it's appropriate for me to consider them in a single decision.

It's accepted that M is the victim of fraud, but this isn't enough in itself for me to say that HSBC ought to be responsible for refunding M. Just because HSBC accounts received fraudulent funds doesn't create any obligation on them to reimburse the losses, I would need to be satisfied that there was a failing by HSBC which caused the loss, or that it would be otherwise fair and reasonable for them to take responsibility. And it's reasonable to consider this based on what HSBC knew, or ought reasonably to have known at the time, rather than with the benefit of hindsight.

Account opening

I've considered HSBC's actions when opening both accounts A and B. I'm satisfied that for each account they asked for, and received, appropriate identification documents. And they carried out reasonable due diligence and checks before deciding to proceed with the opening of each account. Nothing I've seen suggests that HSBC could have reasonably foreseen either account would be used to receive fraudulent funds. So, here I'm not persuaded there was a significant missed opportunity to prevent the fraud.

Transaction monitoring

Having reviewed the statements for both accounts A and B, I can see there wasn't a create deal on activity before the payments in from M.

Account A had only recently been opened, and from the statements I've reviewed there isn't many transactions. So, there's nothing before the arrival of M's payment that ought reasonably to have caused concern. M's payment is the largest to arrive by a considerable margin, but I'm also mindful that newer accounts will need to be credited at some point. The money is then moved on the same day to an existing payee. But even if HSBC had decided to question their customer about the payments, I see that it's likely they would have been able to provide an explanation for both the receipt of funds, and the payment out.

As there were no other concerns about the account, such as fraud reports or notifications, and there were no concerns about the destination account at the time, it doesn't seem there would be any reason for HSBC to disbelieve their customer. So, I don't think there was a significant indication these were fraudulent funds at the time.

For account B, it was again a newly opened account with some small receipts and spending. M's payments is again the largest deposit by far, but differently to the payment into account B is left alone for two days before any transactions take place. The money is then passed on by two transfers to what appear to be business accounts, and one card payment. Like account A there doesn't appear to have been any other concerns about this account, and the outward payments were to existing beneficiaries. All of which would have helped mitigate the perceived risk to HSBC. So again, if they had questioned their account holder, I think it likely they would have been able to provide an explanation for the account movements. HSBC would have little reason to disbelieve their customer at the time.

Ultimately, I'm not minded that there's a significant failure here from HSBC, and that they ought reasonably have been able to prevent M's losses.

The notification of fraud

I'm satisfied that by the time HSBC were notified of the fraud all the funds in account A had been used up, so there was nothing further to return to M. HSBC have also demonstrated that they made unsuccessful attempts to recover the funds that had been sent on. For account B there was an amount of £3,292.16 that was still available, and I understand this has been returned to M.

HSBC were also able to recover £32.19 from one 'second generation' bank. But for both accounts I'm satisfied that HSBC acted appropriately once notified of the fraud, and took the steps I would expect them to take.

Summary

While I accept this will be disappointing to M, who are genuine victims of fraud here, I'm not persuaded that their loss is down to failings by HSBC. As such I'm not minded to ask them to do anything further here.

This was accepted by HSBC. M did not agree. They said, in summary:

- It was highly likely HSBC didn't perform due diligence, due to the size of the payments received and being immediately sent out. It was unlikely that M was the only victim of a scam, so M's payments should be reviewed in the context of other payments.
- The recipient was charging for services, but they didn't believe this would hold up to any scrutiny because of the lack of genuine business activity.
- HSBC were negligent in onboarding their account holders, and asked whether they had asked about the nature of the business activity.

It now falls on me to consider the decision afresh.

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 remain satisfied with the conclusions reached in the provisional decision. I recognise again that this will be a disappointment to M. I'd like to assure them I have considered the points raised in response to the provisional decision carefully.

I'm satisfied though that I considered many of these points in the provisional decision. M has also referred to a decision on a different case – but it's important to note that each complaint our service deals with is judged individually on its own merits.

In this case I'm satisfied that HSBC carried out appropriate identification checks when opening the accounts belonging to A and B. And there was nothing within those checks that would lead them to reasonably suspect the accounts would be used to misappropriate funds. So, I don't see that HSBC missed an obvious opportunity to prevent the losses to M here.

Both accounts A and B were recently opened and had been used only for low value transactions. The transaction from M are by far the largest payments into A and B. But in this case, I'm not persuaded that even if HSBC had questioned the account holders, they would still have had concerns. Ultimately many legitimate accounts can receive funds that are out of the ordinary for the usual operation of the account and may often have legitimate reasons for being received. So, any intervention and decision to prevent any transactions would need to be proportionate to the perceived risk.

Here, aside from the transactions from M, there were no other concerns about these accounts. And the outbound payments were to existing beneficiaries, with no reported problems. So, in the absence of any other concerns I'm not satisfied that had HSBC questioned their account holders, they would have continued to hold enough concern to keep the account blocked or decline any further payment instructions. I'm not persuaded that HSBC missed an obvious opportunity to prevent the transactions.

I'm satisfied that once they were notified of the fraud, HSBC acted appropriately in restricting both accounts A and B, and recovering what funds were available.

Having considered everything, I'm not satisfied here that there were any failings by HSBC that were significant enough that they ought reasonably to be responsible for reimbursing M's losses.

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 M to accept or reject my decision before 30 July 2025.

Thom Bennett
Ombudsman