

complaint

Mr F complains that HSBC Bank Plc has refused to refund disputed transactions on his bank account. Mr F says he is the victim of fraud and wants HSBC to refund the money.

background

While Mr F was abroad he transferred £20,000 from the credit balance of his account with an on-line gaming company to his HSBC account, using a computer in an internet café. Over the next 48 hours a large number of transfers totalling almost the same amount were then debited from his HSBC account and credited (back to) his gaming account.

A short while after the last transfer, Mr F contacted HSBC to say he did not make or authorise the transactions. The bank cancelled Mr F's debit card. HSBC advised Mr F that some transfers to the gaming company had been declined as they had been flagged by the bank's fraud monitoring system. Mr F considered HSBC should have blocked his debit card at this earlier point in the time of the transfers – preventing the subsequent transactions.

HSBC did not refund the transactions. The bank said it did not block Mr F's card as it needed to investigate the declined transactions – by which time Mr F had contacted the bank. HSBC said the gaming company had told it the transactions were consistent with Mr F's previous use of his gaming account. Mr F was not happy with HSBC's response so referred the matter to this service.

Our adjudicator did not recommend Mr F's complaint should be upheld. In summary, he agreed with HSBC's assessment and could see no immediate financial advantage to a fraudster – the payments were made to Mr F's gaming account and any winnings would be credited to that account. He considered it unlikely a fraudster would use Mr F's debit card or bank account information for this purpose.

Mr F did not agree with this view so the matter has been referred to an ombudsman for a final decision. He wanted to discuss a recent situation where HSBC blocked a payment from his wife's bank account to her account with the same on-line gaming company. He says this reinforces his view HSBC should have blocked his debit card before all the transactions to the gaming company were processed.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same conclusion as the adjudicator. I am sorry to disappoint Mr F.

I want to first deal with Mr F's recent request to discuss HSBC's blocking of his wife's account – as this could be considered a request to hold a hearing under our rules. I do not believe this is appropriate or necessary in this case. The purpose of a hearing is not for either party to explain their case, or for issues to be addressed which the parties wish to raise. Rather, it is so the ombudsman can examine specific issues which he or she considers cannot otherwise be properly determined, even after a careful study of the papers. I am satisfied the key issues which give rise to this complaint are sufficiently documented.

There is little I can add to the adjudicator's view on this matter. I agree it is highly unlikely a fraudster would access Mr F's bank account with the sole purpose of then using the funds on

Mr F's account with an on-line gaming company. There is no immediate financial benefit to the fraudster. And the fraudster would need to get the username and password for Mr F's gaming account in order to impersonate him.

I know Mr F believes the computer he used in the internet café may have had a 'Trojan' installed on it to get the details of both his HSBC account and on-line gaming account information. While I accept this is possible, I am not persuaded this is the case – as the fraudster would have no financial benefit from doing so. If a fraudster was able to gain access to Mr F's bank account, I would expect them to withdraw or transfer money so they could spend it (rather than use it on a gaming website where any winnings are credited to an account that is linked back to the bank account).

I also know Mr F is upset that HSBC did not block his card when it declined some of the transactions. First, it is important to note that Mr F had used his HSBC account to make transfers to his on-line gaming account before. Mr F's bank statements also indicate that he had carried out transactions with other gambling companies. So I do not find it surprising that the first transactions were processed by the bank.

The first declined transaction was for substantially more than the previous ones. So, it was outside Mr F's previous pattern of usage for this gaming company and, again, I do not find it surprising that it triggered HSBC's systems prompting further investigation. The bank has said it did not contact Mr F to check this substantial (or the later) transaction(s) as it would not normally contact a customer at an unsocial hour. It would not necessarily have known Mr F was in another country. And I believe that – having declined the transaction for the substantial amount – HSBC probably considered it had stopped any immediate threat to Mr F's account. So it would follow its normal procedures and contact him at a (more) sociable hour.

But I consider the timing of the transactions to be important for a different reason. The first was made just before 10.00 pm (in the UK). The last successful one was made just before 04.30 am. Two more transactions were attempted after this but declined as there were insufficient funds in Mr F's bank account. HSBC's records show that Mr F rang the bank less than ten minutes after the last unsuccessful (declined) transaction. It seems strange to me Mr F would contact the bank at this particular time if he was not aware of what was going on.

Mr F has also suggested the fraudster carried out the transactions as part of a wider campaign to discredit him and damage his reputation. As Mr F no longer had funds in his bank account he had to borrow money in order to fulfil obligations he says he had made. Mr F has said the person responsible for the transactions has been interviewed and may have been detained by the police in the country he was visiting. But the only evidence I have seen is a copy of the document showing Mr F had reported the alleged crime to the police.

When I combine all of the above, I am not persuaded Mr F's version of events is plausible. I am unable to conclude safely that Mr F did not know what was going on. I consider it most likely that either he carried out the transactions or they were made with his knowledge and authority.

I know Mr F will be disappointed with this but I do not believe I can fairly direct HSBC to refund the disputed transactions.

my final decision

For the reasons I have given, my final decision is that I do not uphold Mr F's complaint.

Andrew Davies
ombudsman