

### **complaint**

Mr T complains that he released goods to a third party but would not have done so had it not been for failings on HSBC Bank Plc's (HSBC) part.

### **our initial conclusions**

Our adjudicator did not recommend Mr T's complaint be upheld. Mr T disagreed saying that HSBC failed to alert him that the payment he had received was a cheque or question the cheque.

### **my final decision**

To decide what is fair and reasonable in this complaint, I have considered everything that Mr T and HSBC have provided.

I am satisfied that Mr T found a buyer who said he would pay him approximately £8,500 for goods he wanted to sell. The buyer said he would send Mr T a faster payment the day before collecting the goods. In fact, the third party deposited a cheque into Mr T's account which was subsequently returned unpaid. Nevertheless, the proceeds of the cheque were included in the total balance for Mr T's HSBC account (but not included in his available balance) until it was returned unpaid.

I am satisfied that Mr T used HSBC's telephone banking service several times the day before the goods were to be collected to find out if he had received payment. He was told, when he spoke to advisors, that there were no pending payments showing. He accessed HSBC's automated system just before midnight and was given his total balance (suggesting he had received approximately £8,500) but was not told the payment he had received was a cheque deposit. I am satisfied that Mr T could have found out what his available balance was using HSBC's automated system (which might have alerted him to the fact that he had been paid by cheque) but that he did not do so. Instead he made a reasonable assumption (that he had received the faster payment he had been promised) which turned out to be incorrect. This is unfortunate but I cannot say it is as a result of any errors HSBC has made. In the circumstances, I agree that this complaint should not be upheld.

**My final decision is that I am not upholding this complaint.**

**Under the rules of the Financial Ombudsman Service, I am required to ask Mr T either to accept or reject my decision before 12 September 2013.**

*Nicolas Atkinson*

*ombudsman at the Financial Ombudsman Service*

The ombudsman may complete this section where appropriate – adding comments or further explanations of particular relevance to the case.

### **ombudsman notes**

Mr T says HSBC should not have agreed to the third party depositing the cheque into his account, and has given reasons why. Having considered a statement given by the member of staff involved, I do not agree that there were good reasons for HSBC to become suspicious about the cheque that was paid in. I do not, therefore, agree that it should have refused to allow it to be paid in.

Mr T did not tell HSBC at any stage that he was expecting a faster payment. HSBC was not, therefore, on notice that Mr T was not expecting a cheque. Mr T did, however, have opportunities to discover that he had not received a faster payment. For example, he might have realised he had not received a faster payment if he had checked his available balance as well as his total balance. Alternatively, had he rung after 8am on the day the goods were collected, he could have spoken to an advisor using HSBC's telephone service and checked whether he had received a faster payment or some other payment.

### **what is a final decision?**

- A final decision by an ombudsman is our last word on a complaint. We send the final decision at the same time to both sides – the consumer and the financial business.
- Our complaints process involves various stages. It gives both parties to the complaint the opportunity to tell us their side of the story, provide further information, and disagree with our earlier findings – before the ombudsman reviews the case and makes a final decision.
- A final decision is the end of our complaints process. This means the ombudsman will not be able to deal with any further correspondence about the merits of the complaint.

### **what happens next?**

- A final decision only becomes legally binding on the financial business if the consumer accepts it. To do this, the consumer should sign and date the acceptance card we send with the final decision – and return it to us before the date set out in the decision.
- If the consumer accepts a final decision before the date set out in the decision we will tell the financial business – it will then have to comply promptly with any instructions set out by the ombudsman in the decision.
- If the consumer does not accept a final decision before the date set out in the decision, neither side will be legally bound by it.