

## **Complaint**

Mr A complains that HSBC UK Bank plc closed his accounts and recorded a CIFAS marker against his name. CIFAS is one of the UK's fraud alert services.

## **Background**

Mr A says his account was taken over and he knew nothing about the transactions which took place on his account during February 2018. He says he's finding it difficult to open another bank account and his mental health has been affected by the impact this is having on him.

HSBC said a credit of £2,000 received on 9 February 2018 was reported as fraudulent. The money was used, within a few days, through various ATM and retail transactions. Some money was also transferred to and from Mr A's savings account with HSBC. HSBC says that when it contacted Mr A to ask about the transaction, his answers were inconsistent and vague. In April 2018, it closed his accounts. Before it did so, and as a gesture of goodwill bearing in mind Mr A's young age, it credited the account to bring it to a zero balance.

Around four months later, Mr A complained to HSBC about the closure of his accounts and the fraud marker, but HSBC didn't uphold the complaint so Mr A referred it to us.

Our investigator didn't recommend that the complaint should be upheld. He set out in some detail the relevance of the payment Services Regulations 2017 and the CIFAS requirements for recording a marker. He concluded that Mr A either carried out the transactions or authorised someone else to do so on his behalf. And he thought there was enough evidence for HSBC to record a CIFAS marker.

Mr A didn't agree. He said, in summary, that:

- He told the bank the money was from a friend because he was being threatened and was frightened to tell the truth. He has no evidence of the threats, but that doesn't mean it's untrue.
- He never said he was sure he'd lost his card in a coffee shop. And he changed his version of events because of the threats he received.
- He reported this to the police, but was told to raise it with the bank.
- Mr A explained how this situation has impacted on him and how the stress has affected his mental health.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

*Mr A's testimony*

Mr A's testimony has been largely inconsistent and I will refer to these inconsistencies later in my decision. This sheds some doubt on what he's told us. Mr A says his testimony changed because, during his communications with HSBC, he was being threatened. He says he received around four to five text messages for about four weeks from around the second week in February and that the individual threatening him knew his home address. He has no evidence of these threats because, he says, his storage was full and he has since changed his phone. If these messages were as he described, I would have thought it reasonable for him to have made sure he kept them. Or I would have expected him to have been able to recount in more detail exactly what was said in these messages.

So without more detail about these messages it's difficult for me to say that, on balance, there was a clear reason for his testimony to have changed as much as it has here. I'll now explain what this means for his complaint in more detail.

*Were the disputed transactions authorised by Mr A?*

Mr A says his account was taken over and that he knew nothing about the transactions which took place on his current and savings accounts from 2 to 15 February 2018. This included several transfers between the accounts. But the evidence here strongly suggests that Mr A was aware of the transactions, let me explain why I say this.

He didn't dispute the transactions until 22 March 2018 when the bank asked him to provide an explanation. I would have expected him to have contacted the bank much earlier than that if he thought someone had taken over his account as described.

During the period he says his account was taken over, there are several transfers to and from his savings account. Typically, a fraudster would look to obtain as much money as they could from an account in as short a time as possible. I find it very unlikely that someone who had unauthorised access to Mr A's accounts would make transfers between those accounts because this wouldn't be of any benefit to them.

Mr A told HSBC he'd lost his card when his bag was left unattended in a coffee shop on 2 February. He said he kept his card with his undisguised PIN number written on the back. He later told the bank that he'd given his card to a friend on the street; but then said this wasn't a friend, but someone else he didn't really know so he couldn't provide a name. He told us his PIN was written on a separate piece of paper and that he kept this with his card and his online banking details in a folder which he kept in his bag. He says the information was stolen on 28 January when he left his bag unattended at college.

Mr A says he reported his card as stolen a few days after he realised it was missing. But there's no evidence of this.

Mr A has not been able to give a consistent account of how his card, PIN and online banking details came into the possession of a third party. Neither do I find any of his accounts of what could have happened here plausible. For that reason, I think it's most likely that Mr A authorised the transactions.

### *The CIFAS marker*

The £2,000 credited to Mr A's account was a fraudulent transaction – the money had been debited from a third party's account without their authority or consent. But before placing the CIFAS marker against Mr A's name, HSBC needed to have a reasonable belief that criminal charges could be brought against Mr A as a result of the activity. A suspicion or concern isn't enough. So I need to decide if there's enough evidence to show that Mr A knew more about this than he's told us.

When he was first asked about the £2,000 credit, he said it was money that a friend owed him. He later said he knew nothing about the credit. I've already concluded that Mr A's account hadn't been taken over and that he authorised the transactions on the account. So I think it most likely that he also knew about the fraudulent credit.

As noted by our investigator, CIFAS's standards for recording a marker are very high. But I think there is enough information here for a marker to be placed against Mr A. A financial crime was committed – money was paid into his account from a third party account without their authority. The money was withdrawn shortly afterwards using Mr A's online banking log in and his card and PIN. There's no evidence that this information had been compromised.

Taking all of this together, this all points to Mr A knowing more about the transactions than he's told us. And I think HSBC does have enough evidence to report this matter to the police.

In reaching this decision I have taken into account the impact that the marker has had on Mr A, particularly in view of his young age. But, unfortunately for Mr A, this doesn't change my conclusion.

### **My final decision**

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 19 March 2020.

Elizabeth Dawes  
**ombudsman**