

The complaint

A company which I will refer to as 'F', complains that HSBC UK Bank Plc won't reimburse the money they lost following an Authorised Push Payment (APP) scam.

What happened

The background to the complaint is known to both parties and so I won't repeat it at length here.

Briefly, in July 2019, F was in correspondence with one of their suppliers about some pending payments to them. As part of that, the supplier emailed F stating that they made an error in the final account invoice. They enclosed a revised one with the details of their bank account with HSBC to which the payment was required to be made.

The following day, F received another email purportedly from the supplier stating that they made another error in the invoice which they sent the previous day. The email said that the supplier had 'updated' their bank account details, which they failed to amend in the invoice sent the previous day. The email provided details of a new bank account, which was also with HSBC. Unfortunately, unknown to F, this email was from a scammer who had intercepted the previous email exchanges between F and the supplier.

One of F's staff attempted to make the payment to this account, but it appears that they encountered some difficulties in relation to the sort code. So, they emailed back asking for confirmation of the account details. The scammer reconfirmed the details but also said that if F had any issues, they could provide yet another account details with another bank to send the money to. It appears that meanwhile the staff managed to resolve the issue and proceeded to make the payment.

The scam came to light few weeks later when the genuine supplier pursued F for the payment. F contacted their bank, who in turn contacted HSBC. Unfortunately, by that time, the funds had been removed from the recipient's account.

In early 2022, F complained to HSBC through their representative. The representative said that HSBC failed to properly verify its customer and allowed them to open a bank account in the name of the genuine supplier. Further, the bank subsequently failed to monitor its customer's account when F's payment arrived. It was a large sum of money and was out of character to the recipient's account and therefore required the bank question its customer about this. The bank should also have stopped and questioned large payments being sent out of the account. Had it done so, the fraud would have been prevented.

HSBC did not accept it made any error.

One of our investigators reviewed the complaint. They didn't think that F's loss was caused by any act or omission by HSBC – either when the recipient's account was opened or subsequently when the funds were received or when responding to notification of fraud. So, they didn't think HSBC had to compensate F for the loss. F did not agree.

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.

The bank has provided relevant information to our service to allow us to investigate the complaint. I am limited as to how much information I can share because it relates to a third-party account. But I'd like to assure F that I've carefully reviewed everything before reaching my decision.

The recipient's account was opened a couple of years prior to the date of the relevant transaction. And from what I could see, there wasn't anything particularly suspicious about the customer's identity when the account was opened. It later turned out that the account was involved in a scam, but there isn't anything to suggest that HSBC could reasonably have foreseen - when the account was opened - that it would later be used to receive fraudulent credit.

F's representative has said that the bank allowed a scammer to open a bank account in the name of the genuine supplier. But that wasn't the case. The name on the account is different to that of the genuine supplier's name. However, the bank wasn't obliged to automatically check the name on the account with the name of the intended payee when the money was received. So long as the key identifiers were correct – which usually are the sort code and the account number – the bank would allow a payment through to the account. This is unless the transaction was unusual or there were other signs that might indicate risk of fraud.

I have reviewed the account activity since it was opened. It was an active account with large amounts coming in and going out of the account regularly. Some of them much higher in value than F's payment. So, I can't say that F's payment ought to have stood out as unusual. F's representative has suggested that the other incoming payments too may be from victims of fraud. However, the account had been operating for over two years and there is no evidence of any prior claims of fraud.

Overall, having looked through the account activity since the account was opened, I can't say that F's payment or the transactions following it stood out as unusual or suspicious for the bank to have intervened. So, I can't fairly conclude that HSBC missed an opportunity here to prevent F's loss.

Finally, upon notification of the scam, the bank is expected to take action immediately to prevent any further loss of funds. In this instance, by the time HSBC was notified of the scam, its customer had already removed the funds from the account. So, there wasn't much the bank could do to prevent F's loss. Nevertheless, I can see that the bank placed an inhibit on the account after it was advised of the scam and following its investigation, it went on to close the account.

I am sorry to have to disappoint F. But I can only make an award against a bank if that bank has done something wrong, which has led to a loss. In this case, from what I've seen there hasn't been a failing by HSBC which has resulted in F's loss. As such I can't fairly or reasonably ask it to refund their loss.

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 F to accept or reject my decision before 4 January 2024.

Raj Varadarajan
Ombudsman