

The complaint

Mrs A complains that HSBC UK Bank Plc ('HSBC') allowed an account to be opened and operated by a fraudster and that HSBC didn't do enough when it was notified the payments she sent to its customer were fraudulent.

What happened

Mrs A says she fell victim to a scam which involved paying money to improve her credit score and make money. She paid £10,001 to an account with HSBC as directed by the scammer. Mrs A thinks HSBC should not have allowed a scammer to open and operate this account. She also says that HSBC didn't do enough to return her funds.

HSBC said it isn't liable under the Contingent Reimbursement Model Code (CRM Code) and that relevant account opening checks were completed. HSBC also confirmed it had taken appropriate action in respect of the account Mrs A's funds were sent to.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She felt there was insufficient evidence that Mrs A was the victim of a scam as she hadn't been provided with messages exchanged with the scammer. Mrs A asked for a final decision, so her complaint has been passed to me.

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 investigator said that she didn't feel there was enough evidence that a scam had taken place. Whilst I appreciate why she reached this conclusion I think there is enough evidence to conclude Mrs A was the victim of a scam and I note the sending bank treated it as such. Given the nature of the messaging service used by the scammer I can understand why Mrs A no longer has these messages. And I note that Mrs A has provided screenshots of things the scammer posted about being able to improve credit scores and make money for people.

I don't doubt that this scam had and continues to have a significant impact on Mrs A. But being the victim of a scam doesn't automatically entitle her to a refund from the bank that received her money.

HSBC has signed up to the Lending Standards Board's voluntary Contingent Reimbursement Model Code (the CRM Code). The CRM Code sets out what is expected of the 'Sending Firm' and 'Receiving Firm' (in this case HSBC) when payments are made or received.

In summary, the obligations for the receiving firm states firms should;

- Take reasonable steps to prevent accounts from being used to launder the proceeds of APP scams.
- Have procedures to prevent, detect and respond to the receipt of funds from APP scam; and

- Where the receiving Firm identifies funds where there are concerns that they may be the proceeds of an APP scam, it should freeze the funds and respond in a timely manner.

So I've considered these points.

HSBC has shared relevant information with our service in confidence to allow us to investigate Mrs A's complaint. But I'm limited as to how much information I can share with Mrs A because it relates to a third-party account. But I'd like to assure her that I've carefully reviewed everything before reaching my decision.

Complaints about receiving banks and any acts or omissions came into our jurisdiction from 31 January 2019. I've seen evidence from HSBC to show that the receiving bank account was opened prior to 31 January 2019. This means I can't comment on whether there were any failings by HSBC when the account was opened.

I've gone on to consider whether the activity on the receiving bank account ought reasonably to have caused HSBC any concern. Whilst data protection reasons mean I can't share any information with Mrs A, I don't think there was anything relating to the activity on the account that should have prompted HSBC to have any concerns.

Finally, I've considered HSBC's actions on receipt of notification of the scam from Mrs A's bank. I have seen evidence to show that by the time the sending bank reported the scam to HSBC all the funds she transferred to the scammer had been removed. So there was nothing HSBC could have done to protect Mrs A's funds or prevent her loss. I'm satisfied that once it was notified of the scam HSBC took appropriate action.

Whilst I'm sorry to disappoint Mrs A, I can't reasonably hold HSBC liable for her loss.

My final decision

For the reasons set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 29 August 2023.

Jay Hadfield
Ombudsman