

The complaint

Miss O complains that HSBC UK Bank Plc recorded information about her with the national fraud database Cifas.

What happened

Miss O had an account with HSBC. In October 2022, HSBC decided to close Miss O's account.

But Miss O subsequently had difficulties opening a new bank account – and discovered that HSBC had recorded information about her on the Cifas national fraud database. Miss O complained to HSBC, and referred the complaint to us.

Our investigator looked at this, and didn't think the complaint should be upheld. Miss O didn't agree. The complaint has been passed to me to decide.

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.

I don't uphold the complaint. I'll explain why.

The marker HSBC recorded shows there's been a "misuse of facility". It means that Miss O's account was used to receive fraudulent funds. To file this marker, HSBC needed to have reasonable grounds to believe that fraud or financial crime had been committed and the evidence needed to be clear, relevant and rigorous. HSBC also needed evidence that Miss O was aware that the payment she received was, or might be, from an illegitimate source. This could include any evidence and testimony supplied by Miss O.

In this case, HSBC has told Miss O it was unhappy with the operation of Miss O's account, and that its concerns related to specific transactions on Miss O's account. It also asked Miss O for information about certain payments into the account.

In July 2022, Miss O received a payment of £100 into her account. HSBC asked Miss O for details about this payment. According to HSBC's notes, Miss O told them she'd received this money from a friend of her brother-in-law. She said her brother-in-law didn't have access to his own account, so he'd asked his friend to send the funds to her instead. She then transferred the funds to her brother using a cryptocurrency exchange. The notes state that HSBC advised Miss O at this time that she should only receive credits from people she knew personally.

A few days later HSBC contacted Miss O about a second payment, of £963.81. The statements suggest this payment came from a construction firm to pay an invoice. It appears Miss O told HSBC that this money was also for her brother so he could buy food. Towards the end of August 2022, Miss O called HSBC and said that her brother-in-law was

threatening her for the money left in the account. HSBC said Miss O could withdraw salary or benefits in branch, but that if she felt threatened she could contact the police.

Based on everything I've seen, I'm satisfied fraudulent funds entered the account.

I've gone on to consider if Miss O knew these payments might be illegitimate.

I note that during the initial investigation HSBC warned Miss O about receiving payments from people she didn't know. Meanwhile, the explanations Miss O has given us and HSBC have been inconsistent:

- When HSBC investigated the first payment, Miss O said she spoke to her brother-in-law all the time – but then said, when asked for evidence, that she wasn't able to ask her brother-in-law to send her the evidence again. She said she was unable to provide evidence of conversations relating to the first payment because her phone had deleted everything.
- Despite saying the second payment was for food for her brother, she was unable to provide any evidence to support this.
- Miss O told us that the payments came from family members – but told HSBC they were payments from third parties she didn't know.

Thinking about all of this, I don't find what Miss O has said plausible or persuasive. I appreciate this will be disappointing to Miss O. But based on what I've seen, I'm satisfied HSBC met the requirements to record information with Cifas. I'm satisfied fraudulent payments entered Miss O's account. I find she knew they might be from an illegitimate source.

It follows that I don't uphold the complaint and I'm not going to tell HSBC to remove the information.

I've considered Miss O's further comments. She is unhappy that the information is recorded with Cifas as she says it stopped her applying for a bank account elsewhere. I don't doubt that the information recorded with Cifas has had serious consequences for Miss O. But for the reasons I've already explained, I'm satisfied HSBC was justified in recording this information. So this doesn't change my conclusion.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 20 October 2023.

Rebecca Hardman

Ombudsman