

## **The complaint**

Mr J has complained HSBC UK Bank plc added a marker against his name to the industry fraud database, CIFAS and closed his business account.

## **What happened**

In 2020 Mr J closed down his business, in the name of R. At that time R held an account with HSBC.

HSBC contacted Mr J in January 2020 to query a payment R had received into their account. This was for £4,285. Mr J confirmed he'd accepted this payment into R's account from a friend of a friends and was told he could keep 2% as commission and pass the remainder to an overseas account and £500 to his friend.

As HSBC knew the money into R's account had been transferred as the result of a malicious scam, they decided to block account and later added a fraud-related marker against Mr J's record. They felt the evidence they'd seen indicated Mr J was aware of what had happened and had been involved.

Mr J brought R's complaint to the ombudsman service.

Our investigator felt the evidence showed Mr J's involvement in what happened. He wasn't going to ask HSBC to do anything further.

Mr J continued to protest that he'd not been aware that this was a scam. He's asked an ombudsman to consider R's complaint.

## **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.

Having done so, I've reached the same outcome as our investigator. I'll explain why.

It is clear what the requirements are prior to lodging a marker. Specifically:

*"There must be reasonable grounds to believe that an identified fraud or financial crime has been committed or attempted.*

*The evidence must be clear, relevant and rigorous such that the member could confidently report the conduct of the subject to the police."*

So HSBC must be able to provide clear evidence that a financial crime was being committed and Mr J was involved.

I've seen the evidence about the funds paid into R's account. These were the result of someone being scammed. There's no doubt this money didn't belong to R or Mr J.

Mr J told us he knew this but was helping out a business acquaintance and thought he was transferring money to assist them.

I find this all a bit odd. Mr J sent some of this money straight back to the friend who approached him. I'd have to wonder why he didn't ask the friend why he wasn't making this payment himself rather than asking Mr J to help out. I say this because Mr J admits he was allowed to keep over £250 from this payment just for receiving the money. That sounds like a considerable sum for hardly doing anything. That payment suggests to me that Mr J knew this was risky and could be illegal and was being paid for the risk he was accepting.

I know Mr J disputes this but overall I'm satisfied that HSBC had sufficient clear evidence to lodge the CIFAS marker and close R's account.

Mr J has also complained that he was unable to access the remaining funds in R's account for seven months. There's no doubt that's poor customer service and HSBC has offered £250 in compensation for the inconvenience. Taking everything into account that seems fair and reasonable.

This offer was made before our service's consideration of the complaint, and I leave it to Mr J to decide whether he wishes to accept this. I say this as R has been dissolved so I can't oblige HSBC to make a payment relating to a business account for a business that is no longer in existence.

### **My final decision**

For the reasons given, my final decision is not to uphold Mr J's complaint against HSBC UK Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 12 October 2023.

Sandra Quinn  
**Ombudsman**