

The complaint

Mr A complains that HSBC UK Bank Plc hasn't protected him from losing money to a scam.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything here. In brief summary, Mr A has explained that in October 2022 scammers persuaded him his banking was compromised, and they tricked him into making payments from his HSBC account to his Revolut account, and from his Revolut account to various merchants. He says the scammers also, through HSBC, took out a loan for £8,000 and an overdraft facility of £2,000 in his name.

The push payments from Mr A's HSBC account to his Revolut account were as follows.

Payment number	Date	Amount (£)
1	03 October 2022	6,000
2	03 October 2022	375
3	03 October 2022	2,000
Total		8,375

Ultimately, Mr A didn't reach agreement with HSBC about things, so he referred his complaint about HSBC to us. One of our Investigators looked into things but was unable to resolve matters informally. The matter has therefore been passed to me for a decision.

I sent Mr A and HSBC my provisional decision in August, which they both responded to. I'm now ready to explain my final decision.

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 decided not to uphold Mr A's complaint for materially the same reasons as explained in my provisional decision. I've explained why again below.

Let me say again, first of all, I have no doubt Mr A has been the victim of a scam here. He has my heartfelt sympathy. Ultimately, however, Mr A has suffered his loss because of fraudsters, and this doesn't automatically entitle him to a refund from HSBC. It would only be fair for me to tell HSBC to reimburse Mr A his loss (or part of it) if I thought HSBC reasonably ought to have prevented the payments (or some of them) in the first place, or HSBC unreasonably hindered recovery of the funds after the payments had been made; and if I was satisfied, overall, this was a fair and reasonable outcome.

Prevention

I'm satisfied Mr A authorised the relevant payments, albeit he was tricked by scammers into doing so. HSBC would generally be expected to process payments a customer authorises it to make. And under The Payment Services Regulations and the terms and conditions of the account, Mr A is presumed liable for the loss in the first instance, in circumstances where he authorised the payments. That said, as a matter of good industry practice HSBC should have taken proactive steps to identify and help prevent transactions – particularly sufficiently unusual, uncharacteristic or suspicious transactions – that could involve fraud or be the result of a scam. However, there are many payments made by customers each day and it's not realistic or reasonable to expect HSBC to stop and check every payment instruction. There's a balance to be struck between identifying payments that could potentially be fraudulent, and minimising disruption to legitimate payments.

The prior activity of Mr A's HSBC account is an important consideration when considering whether these payments were sufficiently unusual or uncharacteristic for the account such that HSBC should have paused the payments, pending further enquiries, before allowing them through.

Looking at Mr A's account activity in the months before he was scammed, he'd made some payments for around £3,000, but nothing greater than this. So, his first payment (on 3 October 2022) for £6,000 was for an unusual and uncharacteristic amount. That said, I can see that Mr A had previously made payments from his HSBC account to the same account to which his £6,000 was headed – in particular, on 5 September 2021, 30 July 2022, 8 August 2022, and 10 August 2022. So I think it would have looked to HSBC like Mr A was sending the £6,000 to an account in his own name, which he'd previously paid several times without issue, and that there wasn't anything sufficiently concerning about the instruction to warrant intervention. I'm satisfied it wasn't therefore unreasonable that HSBC didn't intervene in the £6,000 payment to Revolut and (for the same reasons) the £375 payment and then the £2,000.

I appreciate what Mr A has said in response to my provisional decision, namely that it seems unfair that HSBC would let his account balance drop so much, without intervening, when his account balance, he says, had never been close to zero ever since 2018. However, whilst I have no doubt that had HSBC intervened in these payments it would have unearthed the scam, as I've said, it's not realistic or reasonable to expect HSBC to stop and check every payment instruction, and there's a balance to be struck between identifying payments that could potentially be fraudulent, and minimising disruption to legitimate payments. And given this, and for the reasons I've explained, I'm satisfied I can't reasonably say HSBC ought to have been *obliged* to have paused the payments to Mr A's Revolut account pending enquiries with Mr A. It follows, this means I'm satisfied HSBC did not unreasonably miss an opportunity to prevent the payments.

Recovery

When Mr A told HSBC he'd been scammed, HSBC should have done its best to try to get his money back. However, Mr A instructed HSBC to send the payments to his Revolut account. That's what HSBC did. By the time Mr A told HSBC he'd been scammed the money had already been sent on from his Revolut account to various merchants, which I'm satisfied HSBC could not reasonably have helped recover.

The loan and the overdraft

It's unclear how the fraudsters tricked Mr A into the loan of £8,000 and overdraft of £2,000. But I don't doubt from everything I've seen that they somehow did; and that this wasn't the fault of HSBC, nor Mr A (who was tricked by the fraudsters).

I'm pleased to see HSBC successfully prevented the loss of the £8,000 loan funds. That is, when the loan of £8,000 hit Mr A's HSBC account, I understand that the scammers tricked Mr A into instructing a payment of this amount (£8,000) out of his account (on top, and in addition to, the payments already addressed above) but that HSBC successfully prevented this from leaving the account. Mr A didn't therefore lose the loan funds. And because I don't think, for the reasons I've already explained, that HSBC can be held responsible for the payments that *did* leave Mr A's HSBC account, I think HSBC's offer to remove interest from the loan is a fair one. I can't ask HSBC to cancel the loan without collecting repayment of the principal balance (without interest) from Mr A in circumstances where Mr A didn't lose the loan money, nor have I found HSBC at fault in regard to the money he did lose.

Regarding the overdraft, which I understand was utilised and lost (this enabled the scammers to trick Mr A into paying £8,375 out of his account rather than £6,375), again I haven't seen anything to persuade me this was HSBC's fault.

I understand Mr A will be disappointed. However, for the reasons I've explained, I don't think HSBC unreasonably missed an opportunity to prevent the loss of these payments. Fraud of this type can be deeply upsetting; I think this was always, once it had happened, going to be a distressing and inconvenient period for Mr A. So for the reasons I've explained, I don't uphold this complaint about HSBC.

My final decision

For the reasons I've explained, 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 29 September 2023.

Neil Bridge
Ombudsman