

## **The complaint**

Mr O has complained HSBC UK Bank plc lodged a fraud-related marker on the industry fraud database, CIFAS, in his name.

## **What happened**

In 2022 Mr O was told by HSBC that they were closing his account. They also lodged a fraud-related marker on his record with CIFAS.

In 2023 Mr O was increasingly having difficulty in getting credit and complained to HSBC.

He asked HSBC to remove the marker. HSBC didn't feel they'd done anything wrong and refused to remove this.

Mr O brought his complaint to the ombudsman service.

Our investigator reviewed the evidence and believed HSBC's evidence was sufficient to lodge the CIFAS marker. She considered Mr O's testimony in support of his complaint but didn't believe this showed he allowed a friend to use his account which accounted for the fraudulent credits.

Mr O disagreed with this outcome. He's asked an ombudsman to consider his 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.”*

So HSBC must be able to provide clear evidence that an identified fraud was being committed and Mr O was involved.

There's also a requirement that HSBC should be giving the account holder an opportunity to explain what was going on.

I've seen the evidence provided by HSBC. This confirms they received a notification from another bank that Mr O's account had received six payments totalling £12,100 as the result of a safe account scam. HSBC tried to contact Mr O a number of times but without any success.

Mr O has told us he got to know someone online through networking and trading crypto. This individual asked Mr O if he could send money through Mr O's crypto wallet as he was unable to withdraw funds from his own wallet. This proceeded without any reason to cause Mr O any concerns. This person then asked Mr O if he could use to his bank account to send money he was getting in exchange for a watch sale. He allowed this as he didn't see anything wrong with what he was doing. Mr O said this was why he transferred the funds to his own crypto wallet as soon as the £12,100 was credited to his HSBC account. He then gave this money to the third party.

I've considered this but I'm not convinced by his testimony or the evidence he provided.

I say this because I've reviewed Mr O's history of account use with HSBC. This shows unusual use. I can see payments from Mr O's HSBC account to his crypto wallet. From October 2021 to May 2022, there is no use at all then renewed usage. By the day of the fraudulent credits, Mr O empties his own account. If he was just receiving a credit for a watch, I see no reason why Mr O would do this. In fact this behaviour indicates that something suspicious was about to happen. Mr O knew it and didn't want any of his own funds at risk.

Mr O hasn't been able to show us any evidence of his relationship with this third party. I appreciate the relationship may have been conducted on social media where this is no longer traceable but I find the fact there's no evidence at all surprising.

Mr O has also told us he tried to contact HSBC to discuss what happened but there is no evidence this happened either. Mr O's statements are contradicted by HSBC's evidence.

The requirements around banks lodging markers at CIFAS include there being sufficient evidence that the customer was aware and involved in what was going on. In this case I think this exists here from reviewing the payments into Mr O's HSBC account.

On this basis I don't believe it would be fair and reasonable to ask HSBC to remove the CIFAS marker.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 16 May 2024.

Sandra Quinn  
**Ombudsman**