

complaint

Mr W has complained HSBC Bank plc is expecting him to pay back money they say he owes them.

background

Mr W has complained HSBC is expecting him to repay over £3,250 which he was overdrawn when HSBC closed his account in 2014. He believes he was overdrawn only because someone else used his account fraudulently.

In early 2014, Mr W bought a motorcycle. He gave the person who was buying his bike his account details to get the money owed to him.

Around this time, transactions on Mr W's account were disputed. This included various direct debits. The money was credited back to Mr W's account. However HSBC then had to repay these to the company who'd collected the direct debits. This resulted in Mr W's account going overdrawn. HSBC were concerned Mr W had allowed his personal details to be used and closed his account. They have asked him to repay the outstanding money. Mr W hadn't got any of the correspondence from HSBC. Mr W complained to HSBC this year.

As HSBC didn't feel they'd done anything wrong, Mr W brought his complaint to the ombudsman service. Our adjudicator reviewed the evidence. She felt there was enough to show HSBC hadn't acted unfairly. The telephone calls may not have been made by Mr W but they were done by someone who was able to use his personal details. But at the same time she felt Mr W had gone into the bank himself to reset his security information.

Mr W didn't feel this was the right outcome. He asked an ombudsman to make a decision on his complaint.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Unfortunately for Mr W I believe our adjudicator came to the right conclusion. Firstly it's worth stating I'm not investigating the fraud or making any decision on who may have done what. What I'm deciding is whether it's fair – based on the evidence – HSBC expects Mr W to pay what's owed on his account. Overall I think it is. I'll explain why.

- HSBC's evidence shows Mr W went into the branch to reset his telephone security details with the required identification. It was shortly after that the new security details were used to request the refunds by phone. All the phone calls seem to have been made by the same person.
- The transactions that were disputed – and refunded to Mr W's account – were direct debits dating back to 2006. I can't see how someone who Mr W barely knew would have known enough about him to dispute these transactions. After the money was refunded, it was then spent. The debt was caused by HSBC having to repay the money back to the companies who'd collected direct debits for services Mr W had had.
- Mr W has said the police confirmed he is not suspected of this fraud. He's told us there's a letter stating this. Despite our requests this has not been provided to us. It

may well have been lost but as Mr W put so much store on it, I'd have expected it to be kept safe.

- As already stated I'm not investigating who committed the fraud. I appreciate Mr W feels strongly HSBC staff have been involved in manipulating his account details. I'm not in a position to say whether this is the case or not. But based on the evidence I feel this is unlikely.
- I can see HSBC made a number of attempts to contact Mr W, both by letter and telephone. These proved unsuccessful. Mr W says this is because his address was reset on his account by the fraudster. But I don't think the phone number was.
- I can see why HSBC thinks Mr W either requested these refunds himself or allowed someone else to request them. Therefore I understand why they expect him to repay what is owed.

Mr W is obviously concerned at what he's being expected to repay. I believe the debt is now managed by a third party. I don't think HSBC ever issued any default notice to Mr W, although the new debt collector may have done so.

Overall I don't think it's fair to ask HSBC to do anything else.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 30 January 2017.

Sandra Quinn
ombudsman