

The complaint

Mr S complains that HSBC UK Bank Plc (“HSBC”) reclaimed all the direct debit payments made to his credit card account rather than a single payment he felt wasn’t due. He says this resulted in a credit card debt he’s struggling to repay.

What happened

Mr S holds a current account with HSBC. In October 2021, he noticed a direct debit on his HSBC statement which had been paid to a credit card provider. Mr S didn’t recognise the direct debit. So, he contacted HSBC using their online webchat service.

During the webchat conversation Mr S asked HSBC to provide more detail about the direct debit payment he’d seen. As he didn’t recognise the payment, he wanted HSBC to cancel the direct debit and refund him. HSBC agreed to raise an indemnity claim for any amounts owed under the direct debit.

Shortly after, Mr S was contacted by his own credit card provider. They said he owed them about £1,600. His credit card provider required payment from him by 20 December 2021. Mr S’s credit card statement showed a direct debit refund had been paid out to his HSBC account following an indemnity request by them totalling £1,610.44. Mr S didn’t think this was right, so he contacted HSBC to complain about what had happened.

HSBC responded to Mr S the following day. They said the amount withdrawn from his credit card account related to the direct debit indemnity claim he’d raised with them on 19 October 2021. They said Mr S had told them he had no knowledge of the direct debit that had been set up in 2011.

Mr S wasn’t happy with HSBC’s response. He asked them to provide a copy of the signed direct debit instruction together with a recording of the telephone conversation with them on 19 October 2021. He didn’t agree with HSBC’s recollection of what he’d said. HSBC told him the direct debit was an automated instruction, so no paper copy was available. They also said his conversation with them in October 2021 was via their webchat service and not over the telephone.

Mr S remained unhappy. He said he’d only asked HSBC to refund the direct debit claimed in October 2021 and not everything he’d ever paid. HSBC said Mr S had told them he didn’t recognise the direct debit instruction and suggested it was fraudulent. Because of this, all payments made under the direct debit instruction were reclaimed under the indemnity claim.

Mr S decided to refer his complaint to this service. Having considered all the information and evidence available, our investigator didn’t think HSBC had done anything wrong. She thought HSBC had responded appropriately to the situation and reasonably to Mr S’s subsequent complaint. Our investigator didn’t think HSBC needed to do anything more.

Mr S didn’t agree with our investigator’s findings. He didn’t understand how a direct debit could be set up without his signature. He thought HSBC should’ve been clearer about the amount(s) they were reclaiming, as he would’ve told them he only wanted the October 2021 payment refunding.

As an agreement couldn't be reached, Mr S's complaint has been referred to me to consider.

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.

A direct debit is an instruction from an account holder to a bank. It authorises an organisation to collect varying amounts from the individual's account subject to advance notice of the amounts and dates of collection. A direct debit instruction can be set up by contacting the proposed beneficiary. Authorisation can be made in a number of ways, including by post, over the telephone or online. In each case, the beneficiary needs the account holders bank details to enable payments to be claimed.

The efficiency and security of the direct debit scheme is very closely monitored by the banking industry with account holders protected by a direct debit guarantee. This means that where the claiming organisation hasn't complied with the requirements of the scheme or there's been an error, the account holder is entitled to a refund of any payments claimed.

Mr S first contacted HSBC on 19 October 2021 to query a direct debit payment from his account to a credit card company. HSBC have provided a full transcript of the webchat conversation that took place.

Having identified the direct debit payment Mr S was referring to, HSBC said, "... *the direct debit was set up since 02Nov2011. It was with...*".

Mr S responded with, "*Please cancel this dd. Its been set up without my knowledge or permission*". HSBC provided details of how Mr S could cancel the direct debit instruction and confirmed, "*I will reverse the payment today*". So, at this stage, it appears HSBC had agreed to reverse the single payment Mr S had referred to.

Mr S went on to say, "*I did not set it up!!! This is fraud!!!*". Mr S went on to confirm he'd cancelled the direct debit instructions using HSBC's guidance. He then said, "*I want to know who authorised the dd in the first instance*". So, HSBC confirmed they could make an indemnity claim and undertake an investigation. They also suggested he contact the beneficiary and provided Mr S with a telephone contact number to do that.

HSBC confirmed they would make an indemnity claim and provided a disclaimer wording which Mr S confirmed. HSBC then confirmed, "*Your refund request will be dealt with within one working day, however where further investigation is required, we will look to refund or contact you within five working days*".

Having carefully considered this transcript, I believe HSBC's interpretation of Mr S's responses was that he had no knowledge of the direct debit instruction set up in November 2011 and he believed it was fraudulent. So, HSBC completed an automated indemnity claim for all payments claimed under the instruction Mr S said was fraudulent. This resulted in £1,610.44 being credited to Mr S's HSBC current account in early November 2021. But it also meant this amount was taken from his own credit card account, as that was where the previous direct debit payments had been paid to.

As a result, this left Mr S with an outstanding debt on his credit card account. And although the refund was paid into his HSBC current account, Mr S admits that he's used some of those funds. So, he's no longer in a position to immediately repay them.

It's clear there was confusion about the direct debit instruction. It appears Mr S had been making payments to his credit card account for many years under that authority. And although he may not recall originally authorising the continuous direct debit, it appears likely it was a legitimate instruction. Unfortunately, by telling HSBC he had no knowledge of the instruction from 2011 and also suggesting it was fraudulent, I don't think they had any option but to make a claim for all payments claimed under that instruction.

I do have sympathy for the situation Mr S finds himself in, and while I appreciate he will be disappointed, I can't reasonably say that HSBC did anything wrong. They acted promptly based upon what Mr S told them on 19 October 2021. And from what I've seen, that's what I would've expected them to do.

It's unfortunate that Mr S appears to have used some of the funds refunded to him. But as I can't reasonably hold HSBC responsible for that, I would urge him to discuss the situation openly with his credit card provider so that an affordable and sustainable repayment plan can be agreed.

My final decision

For the reasons set out above, I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 August 2022.

Dave Morgan
Ombudsman