

The complaint

Mr T complains that HSBC UK Bank Plc (HSBC) has refused to refund him the amount he lost as the result of a scam.

Mr T is being represented by a third party, but to keep things simple I will refer to Mr T throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary Mr T saw an advert on YouTube about investing in Amazon shares. Trusting in YouTube as a well-known social media outlet Mr T clicked on the link and completed a contact form. Mr T also registered for an account with the advertised business (X) paying a small initial deposit on his debit card.

Mr T was able to make trades on the platform provided by X. Mr T received a call from X and was persuaded to invest more money with it in Bitcoin. X explained it was unable to buy Bitcoin as it was a business, and that Mr T would have to buy Bitcoin himself and forward it to X.

X assured Mr T he would make a substantial profit by doing this and helped him setup an account with Binance (a legitimate cryptocurrency exchange) using the screen sharing application Any Desk.

X explained Mr T would have to make a final payment to release his funds, but when he made the payment X stopped all communication with him.

Mr T made the following payments by transfer to X via Binance:

1. 23 June 2021 - £6,000
2. 23 June 2021 - £4,000
3. 25 June 2021 - £3,000
4. 25 June 2021 - £3,000 – credit
5. 25 June 2021 - £3,000

Mr T sent a total of £16,000 to X via Binance and has been unable to recover any funds from it.

Our Investigator considered Mr T's complaint but thought HSBC acted fairly when it decided not to refund any of the payments Mr T had made in relation to the scam. Mr T disagreed he thought HSBC should have done more to protect him from the scam.

As Mr T disagreed this complaint has been passed to me to decide.

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.

The circumstances of this complaint are not in dispute and the evidence provided by both Mr T and HSBC set out what happened well. What is in dispute is whether HSBC should refund any of the money Mr T has lost because of this scam.

The transfers Mr T made from his account with HSBC to Binance were unable to be refunded in accordance with the Contingent Reimbursement Model (CRM) because the CRM code does not apply to payments made to and from accounts in the same person's name, as was the case in this scenario.

Mr T has accepted he authorised the payments he made into the scam, so the starting point here is that Mr T is responsible. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether HSBC should have been aware of the scam and stepped in to prevent the payments Mr T was making.

I have thought about the payments Mr T made. The first transfer Mr T made to Binance was for £6,000. While this was for a relatively large amount, I can see that Mr T had made other similar sized payments to external accounts in the previous 12 months, and Binance was a legitimate business. So, I don't think the amount of this transfer would necessarily have triggered HSBC's fraud prevention systems requiring it to step in and stop the payment being made.

However, Mr T was presented with a warning screen when he set up Binance as a payee on his account. The screen warned that the payment Mr T was making had been flagged as *"higher risk"* it also stated that Mr T should *"...check the company is genuine and authorised by the financial conduct authority..."*

I think this warning was sufficient for the payment Mr T was attempting to make given his previous payment history. Mr T choose to continue with the payment, presumably without doing any further research on the business he was investing with.

The remaining payments Mr T made were also to Binance who were now a payee Mr T had set up on his account showing he trusted the business. The payments were also for relatively low amounts, and to a legitimate business. So, I don't think any of these payments would reasonably have triggered HSBC's fraud prevention systems.

As HSBC's fraud prevention systems were not triggered it was unable to step in and prevent the payments from being made. So, HSBC is not responsible for any of the payments Mr T lost because of this scam and does not need to refund the payments to him.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 5 April 2023.

Terry Woodham
Ombudsman