

## **The complaint**

Miss L complains HSBC UK Bank Plc didn't do enough to prevent her becoming the victim of an investment scam or help her when she reported the investment scam.

## **What happened**

Miss L has a current account with HSBC with a debit card and has been a customer since she was a child. Her HSBC account appears to be her main account. She has two current accounts and a help to buy ISA elsewhere too.

In August 2020 Miss L sent a number of debit card payments totalling over £10,000 from her HSBC account to an account in her name with a legitimate cryptocurrency exchange. She says she made these payments because a third party had told her that they could help her trade cryptocurrency and make a significant profit. Miss L says she believed trading in cryptocurrency would allow her to save up enough money to be able to afford a deposit for a house – she was already paying into her ISA with this in mind. She made a number of debit card payments from her current account elsewhere to this cryptocurrency account too.

In November 2021 Miss L contacted HSBC, with the help of a representative, to say she believed she'd been the victim of an investment scam. HSBC looked into this for Miss L but said it wasn't able to recover her money. Miss L complained saying that HSBC should have warned her that the payments she was making might be a scam and didn't do enough to protect her. HSBC didn't agree it had done anything wrong, so Miss L complained to us.

One of our investigators looked into Miss L's complaint and said that there are no warnings about the people she dealt with on the FCA's and IOSCO's watchlists meaning that, though they didn't doubt Miss L's version of events, they hadn't seen any evidence confirming that these payments were part of a scam. More importantly, our investigator didn't think the transactions were unusual compared to her normal activity so didn't think HSBC should have identified them as suspicious. The transactions were also to a legitimate cryptocurrency exchange. Because of this, they didn't automatically trigger an alert for HSBC and a chargeback would have been unsuccessful. So, they didn't uphold the complaint.

Miss L's representatives disagreed with our investigator saying that all of the payments she had made were unusual. They said that HSBC should have asked Miss L about the payments, and had it done so it's likely that HSBC would have discovered that whilst Miss L was sending money to a legitimate cryptocurrency trader, the scammer was in the background advising her to do so, so that they could ultimately take her cryptocurrency and that it would have provided an appropriate scam warning. They asked an ombudsman to consider the complaint, so that's what I've done.

## **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.

In August 2020 Miss L received a message on social media from an individual claiming to

work for a large trading company who said that they could help her make a substantial profit trading cryptocurrency. Miss L was saving to buy a house at the time. Miss L believed the opportunity was a legitimate one because of the number of followers, for example, the individual had and stories from other people saying they'd been able to make substantial profits. So, she started making payments to a cryptocurrency wallet in her name that she'd been told would be used to trade.

Miss L says the first payments she made – of between £100 and £300 – were investments. She was then told that she should upgrade her account – which involved a payment of over £400 – and later that she needed to pay a maintenance fee. But she was happy to make these payments as she could see her investment was already worth over £10,000. She says she decided to withdraw £11,000 and was told she'd need to pay a withdrawal fee and commission. The withdrawal fee was over £2,500 and the commission was over £1,000. Miss L says she made these payments and was told that her funds had been paid to her but she'd need to pay a release fee of over £4,000. In short, Miss L was asked to make increasingly larger payments but was motivated to do so because she believed she'd be getting back over £10,000.

Our investigator didn't think any of these payments were unusual for Miss L, and I agree. I'll explain why.

At the time Miss L made her payments, banks were expected to process payments a customer authorised it to make; but as a matter of good industry practice, a bank should have taken proactive steps to identify and help prevent transactions – particularly unusual or uncharacteristic transactions – that could involve fraud or be the result of a scam.

I've reviewed the prior operation of Miss L's HSBC account. I don't think I can say – given the payments in question here – that HSBC unreasonably failed to intervene before executing Miss L's instructions, or that it would be reasonable here to hold HSBC responsible for Miss L's loss.

There is a balance to be struck here – banks had (and have) obligations to be alert to fraud and to act in their customers' best interests. But they can't reasonably be involved in every transaction. I think the payments in question here were of relatively low value when compared to Miss L's normal account spend and they were not sufficiently unusual or uncharacteristic to say that HSBC ought to have been concerned that Miss L could be at risk of financial harm.

Miss L made similarly large undisputed payments in the past and, as our investigator has also pointed out, these payments were all being made to a legitimate cryptocurrency exchange. HSBC's systems didn't flag any of these payments and, given that they weren't unusual, I can't say that this was a failing on HSBC's part. And, as our investigator says, once Miss L said she'd been the victim of a scam, a chargeback wouldn't have helped.

I agree, given the above, that it wouldn't be fair to have expected HSBC to do more in this particular case. I accept that Miss L appears to have been the victim of an unkind scam. But in this case I don't think it's fair to say that HSBC should refund her.

### **My final decision**

My final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 9 January 2023.

Nicolas Atkinson  
**Ombudsman**