

The complaint

Mr Z has complained that HSBC UK Bank Plc (HSBC) has refused to refund him money he lost as the result of a scam.

What happened

Mr Z was looking to invest money and found an advertisement online for Bubblext. They claimed to be specialists in crypto trading and as this was of interest to Mr Z, he completed a contact form. Bubblext contacted Mr Z and he was convinced to transfer funds into a number of crypto exchanges and then once there, the funds were used to buy crypto. The crypto was then transferred to Bubblext. The investments that were made appeared legitimate. Mr Z was then convinced by Bubblext that investing more would maximise his potential profit.

Mr Z made the following debit card payments totalling £58,109.63 from his HSBC account as set out below. It is my understanding these funds were then sent on to Bubblext;

Payment	Date	Merchant	Method	Amount	Running total
1	25 August 2020	Bitconvert Ltd	Visa debit card	£5,000	£5,000
2	25 August 2020	Bitconvert Ltd	Visa debit card	£7,000	£12,000
3	25 August 2020	Bitconvert Ltd	Visa debit card	£8,000	£20,000
4	8 September 2020	Swiftency OU	Visa debit card	£8,800	£28,800
5	8 September 2020	Swiftency OU	Visa debit card	£6,200	£35,000
6	8 September 2020	Swiftency OU	Visa debit card	£8,311	£43,311
7	9 September 2020	Impalax	Visa debit card	£8,994.75	£52,305.75
8	9 September 2020	Impalax	Visa debit card	£5,803.88	£58,109.63

Mr Z Bubblext "trading account" initially showed that he was making a profit before suddenly showing a massive loss. At this point Mr Z realised that he had been scammed.

Our Investigator considered Mr Z's complaint and thought it should be upheld. She thought the payment 2 to Bitconvert Ltd made on 25 August 2020 should have been significant enough to trigger HSBC's fraud prevention measures, and it should have stepped in at this stage to ask probing questions about the payments.

Our Investigator felt that, had HSBC stepped in at this time and asked relevant questions, it was likely HSBC would have been able to see the payments were most likely part of a scam and prevented any further loss. HSBC disagreed, so 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 Z and HSBC set out what happened. What is in dispute is whether HSBC should refund any of the money Mr Z lost because of the scam.

Mr Z has accepted he authorised the payments he made to Bubblext, so the starting point here is that Mr Z is responsible for making the payments. 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.

In relation to transaction 1, I think that it was not so unusual for HSBC to intervene given its size.

That said, transaction 2 I believe should have been considered unusual. It was a larger amount and him making two transactions in a relatively short time to a new international payee should really have prompted HSBC to intervene.

At this stage, HSBC should have stepped in and asked Mr Z in depth questions to find out what the payments related to. Had HSBC stepped in at this point, I think its likely Mr Z would have explained the reason he was suddenly making a number of large payments from his card within a relatively short space of time.

HSBC would likely have discovered that the funds were intended to be converted to crypto and forwarded to a different trading firm. This has all the hallmarks of a typical crypto scam. So I think HSBC should have warned Mr Z at this point that he was likely being scammed.

HSBC have said that it believes that a warning would not have made a difference. It says that as Mr Z says he did his own research and studied a friend's trades with Bubblext he would have gone ahead with the transactions regardless of any warning provided by HSBC. I have carefully considered this and I am not persuaded by this argument. I think a specific meaningful warning from his long-term trusted bank about this kind of scam explaining the dangers of sending cryptocurrency to a third-party trading platform would have at the very least made Mr Z look into crypto scams and whilst there was no specific warning about Bubblext there are a number of resources detailing crypto scams. Ultimately this was a large amount of money most of which was withdrawn from the equity in Mr Z's company so I think had a meaningful warning been given he would have done further research and ultimately heeded it. So, but for HSBC's failure to act on clear triggers of potential fraud or financial harm, Mr Z probably wouldn't have continued to make the additional payments.

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their actions. In this case, I do not think that Mr Z was to blame for what happened and I haven't seen anything to suggest that he had foreseen the risk of this sort of harm occurring, or indeed any harm. I do not think Mr Z could have foreseen the risk that the company he was dealing with was in fact scammers and the trading account he was viewing was likely to be a simulation. I also can't see there were any credible warnings in place about the Bubblext at the time Mr Z started making the payments. So, in the circumstances, I do not think it would be fair to reduce compensation on the basis that Mr Z should share blame for what happened.

I have considered whether HSBC could have recovered transaction 1. As this payment was made using his debit card, the only way to recover the funds would be via the chargeback process. However, as this transaction was to purchase crypto for Mr Z in the first instance and Mr Z did receive the crypto (before he then transferred it on), I don't think a chargeback would have been successful.

In relation to the interest award HSBC have argued that some of the funds came from a savings account and therefore the interest rate for that account should be used rather than the 8% the investigator recommended. I note though that the majority of the funds came as a dividend payment from Mr Z's business so he was deprived of these funds and therefore I think that an 8% award is reasonable and in line with our general approach when someone is deprived of funds.

Putting things right

1) Refund transaction 2 to 8.

2) Pay simple interest at 8% per year, calculated from the date each payment was made, until the date of settlement (less any tax properly deductible).

My final decision

For the reasons given above, my decision is that I uphold this complaint and require HSBC UK Bank Plc, trading as HSBC Bank, to put matters right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 21 August 2023.

Charlie Newton
Ombudsman