

The complaint

Mrs W complains that HSBC UK Bank Plc trading as first direct (HSBC) is refusing to refund her the amount she lost as the result of a scam.

Mrs W is being represented by a third party. To keep things simple, I will refer to Mrs W 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, around May 2023 Mrs W found an advertisement on Facebook for a business called ISA-Investments (X). When Mrs W clicked on the advertisement it discussed investments in cryptocurrency and appeared to be endorsed by well-known celebrities which gave Mrs W comfort X was a genuine business. She therefore completed an online data caption form with her contact information.

X called Mrs W and explained the investment opportunity in more detail, including that X would be making the investments for Mrs W and taking a 5% commission. X was very professional and knowledgeable explaining to Mrs W that she could start investing with a small amount and eventually the profits could be as much as an additional income for her.

X instructed Mrs W to open an account with it as well as Revolut and Binance. Mrs W then went on to make a small initial deposit into her account with X from an account she held elsewhere.

Mrs W has explained that when she accessed her account with X it looked professional, and like she would expect such an account to look. She was asked to download the remote access software AnyDesk and X carried out tasks on her behalf which Mrs W says gave her further confidence in X.

On X's instruction Mrs W went on to open accounts with Wise and Wirex and could see her initial investment was growing.

Mrs W was then contacted by an individual claiming to be from the anti-money laundering team at Revolut. This person explained that Mrs W had been referred to it for money laundering concerns and that Mrs W needed to make a payment of £7,000 to prove liquidity, showing that she had funds and was not committing fraud.

Believing she was speaking to a genuine representative of Revolut Mrs W made the payment as requested. It was confirmed that the payment was sufficient, but that the FCA would also be involved.

Mrs W was then contacted by an individual claiming to be from the FCA who convinced her to make further payments in relation to tax and money laundering. Mrs W says she continued to make the payments, even taking loans on the scammer's advice to fund the

payments as she feared losing her job because of the anti-money laundering aspect that had been explained to her.

After making the payments requested above Mrs W was contacted by an individual claiming to be from Blockchain requesting further fees which Mrs W also paid.

Mrs W was then promised a phone call which never took place and she realised she had fallen victim to a scam.

Mrs W made the following payments in relation to the scam from her HSBC account:

Date	Payee	Payment Method	Amount
08 May 2023	Mrs W ISA	Transfer	£4,000
09 May 2023	Mrs W ISA	Transfer	£3,000
12 May 2023	Wirex	Transfer	£9,500
13 May 2023	Mrs W	Credit	- £9,500
13 May 2023	Wirex	Transfer	£1,000
15 May 2023	Wirex	Transfer	£8,500
15 May 2023	Wirex	Transfer	£500
26 May 2023	Wirex	Transfer	£10,200
31 May 2023	Wirex	Transfer	£9,520
31 May 2023	Wirex	Credit	- £9,520
05 June 2023	Wirex	Transfer	£9,520
05 June 2023	Wirex	Credit	- £9,520
05 June 2023	Wirex	Transfer	£1,000
05 June 2023	Wirex	Credit	- £1,000
05 June 2023	Wirex	Transfer	£1,500
05 June 2023	Wirex	Credit	- £1,500
05 June 2023	Mrs W	Transfer	£1,000
05 June 2023	Mrs W	Credit	- £1,000
06 June 2023	Wirex	Transfer	£100
06 June 2023	Wirex	Credit	- £100
06 June 2023	Wise	Transfer	£20
06 June 2023	Wise	Transfer	£20
06 June 2023	Wise	Transfer	£100
07 June 2023	Wirex	Transfer	£100
07 June 2023	Wirex	Credit	- £100
07 June 2023	Wise	Transfer	£1,000
07 June 2023	Wise	Transfer	£3,980
07 June 2023	Wise	Transfer	£4,400
14 June 2023	Wise	Transfer	£5,000
14 June 2023	Wise	Transfer	£1,000
14 June 2023	Wise	Transfer	£1,500
14 June 2023	Mrs W	Credit	- £1,500
14 June 2023	Wise	Transfer	£1,500
15 June 2023	Wise	Transfer	£2,000
15 June 2023	Wise	Transfer	£20
15 June 2023	Wise	Transfer	£80
17 June 2023	Wise	Transfer	£9,420

Our Investigator considered Mrs W's complaint but didn't think it should be upheld. Mrs W 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.

It has not been disputed that Mrs W has fallen victim to a cruel scam. The evidence provided by both Mrs W and HSBC sets out what happened. What is in dispute is whether HSBC should refund the money Mrs W lost due to the scam.

Recovering the payments Mrs W made

Mrs W made the payments into the scam via the method of transfer. When payments are made by transfer HSBC has limited options available to it for recovery. HSBC could have requested a refund of any funds that remained in the payee accounts, but the accounts Mrs W made the payments to were in her own name, so if any funds did remain, they would still be within her control.

Should HSBC have reasonably prevented the payments Mrs W made?

It has been accepted that Mrs W authorised the payments that were made from her account with HSBC, albeit on the scammer's instruction. So, the starting point here is that Mrs W 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 intervened when Mrs W made the payments. And if it had intervened, would it have been able to prevent the scam taking place.

The first two payments Mrs W made in relation to the scam were not for such a significant value that I would have expected them to trigger HSBC's fraud prevention systems prompting it to intervene. However, the third payment Mrs W made was for a much higher value and I think this payment and other large payments made over the course of the scam should have caused HSBC concern prompting it to intervene.

But I don't think an intervention from HSBC would have made any difference.

After making payments from her HSBC account in relation to the scam Mrs W went on to make payments from an account she held with Revolut. When making these payments interventions took place by way of a conversation over a chat facility.

Mrs W confirmed:

- She was moving money to her own account
- She had not been advised to open an account with Revolut
- She hadn't been contacted by a third party
- She was making payments from a new Revolut account because her existing account takes too long
- When Mrs W was told that another customer had carried out similar payments and been scammed, she confirmed she was making payments only to her own account

Mrs W was not truthful in the answers she gave above.

Mrs W also took out several loans to fund the payments she made in relation to the scam. It is not usual for loans to be granted for the purpose of investing, so I think it's most likely Mrs W gave incorrect reasons when taking out the loans so they would be made available to her.

With the above in mind, I don't think Mrs W would have given any more truthful answers if HSBC had intervened and questioned her about the payments she made in relation to the scam from her HSBC account. This would have made it very difficult for HSBC to uncover the scam that was taking place and I don't think HSBC missed an opportunity to prevent it.

HSBC is therefore not responsible for Mrs W's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 24 May 2024.

Terry Woodham
Ombudsman