

## **The complaint**

Mr L complains that HSBC UK Bank Plc ("HSBC") have failed to refund the money he lost as part of an investment scam.

Mr L has a representative but for ease of reading I will mainly just refer to Mr L.

## **What happened**

The details of this complaint are well known to both parties, so I will not repeat everything again here. Instead, I will focus on giving the reasons for my decision.

In summary though, Mr L met a scammer that I will call B on a dating platform. B introduced Mr L to a trading platform that I will call C. Mr L then made a number of debit card payments and faster payments to crypto exchanges totalling over £55,000 between March and April 2023. My understanding is that the funds were converted to crypto and then sent on to C.

Mr L asked HSBC to refund these payments as he believes HSBC should have done more to prevent him from being scammed. HSBC did not agree with this. HSBC did pay £75 compensation for issues during its investigation of Mr L's complaint.

One of investigators looked into this matter and he thought that HSBC should have intervened earlier than it did. That said based on the answers that Mr L provided in a call with HSBC on 24 April 2023 he did not think that an earlier intervention would've stopped the scam. He also thought that the £75 paid for the issues in HSBC's investigation was sufficient.

Mr L did not agree with this and therefore his complaint has been passed to me to issue a decision.

## **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.

Having done so, I agree with the conclusions reached by the investigator for the following reasons.

It isn't in dispute that Mr L authorised the disputed payments he made from his HSBC account. The payments were requested by him using his legitimate security credentials provided by HSBC, and the starting position is that HSBC ought to follow the instructions given by their customers, in order for legitimate payments to be made as instructed.

However, I've considered whether HSBC should have done more to prevent Mr L from falling victim to the scam, as there are some situations in which it should reasonably have had a closer look at the circumstances surrounding a particular transaction. For example, if it was particularly out of character.

In this instance I can see that the account was opened just before the scam started and it seems likely that this was the reason the account was opened. So HSBC only had a limited transaction history to compare the scam transactions against to establish what was usual account usage for Mr L. That said I think that HSBC should probably have intervened earlier than it did.

Given this, I need to consider whether an appropriate intervention would have stopped the scam. Firstly, as Mr L has only provided a partial extract of the chat between him and the scammer, I don't know if Mr L was being coached. I can see that the investigator did ask Mr L to provide the rest of the chat, but Mr L has not provided it as he said he deleted it. So I can only base my decision on what is available. But what is clear from the limited chat provided, is that Mr L had a personal relationship with the scammer rather than it being a business relationship.

I have also considered the answers that Mr L gave during a phone call between him and HSBC on 24 April 2023.

I have listened to the call that was made. Amongst other things Mr L said the following;

- He was making his own trades
- No-one had asked him to make the payments
- He had invested in crypto for a long time

It is also clear that Mr L really wanted to make the payments and was not happy with HSBC's intervention.

Considering the limited information, I am satisfied, albeit on balance, that had HSBC intervened earlier, I think the outcome would've been the same. I don't think that HSBC would have been given information from Mr L that would have led it to believe that Mr L was being scammed.

Also, given the answers that Mr L provided when HSBC did intervene and the overall circumstances of this complaint, I don't think that any further intervention or warning would likely have altered Mr L's decision to carry out the transactions. I say this because he met B via a dating app and the tone of the chat between him and the scammer suggests that he trusted the scammer. Mr L said that he had done his own research into C and was convinced it was a legitimate trading firm. He had also received two sizable withdrawals from the crypto exchanges. So overall he seemed completely convinced at the time that what he was doing was genuine.

So overall I think that HSBC should have intervened more than it did, but I don't think an earlier intervention would have prevented the scam.

I've also thought about whether HSBC could have done more to recover the funds after Mr L reported the fraud. In relation to the debit card payments, Mr L paid a crypto exchange to purchase crypto - which he duly received. The loss only occurred when he transferred the crypto out of his crypto wallet and onto C. So a chargeback would not have been successful as he got what he paid for.

In relation to the faster payment transfers, HSBC are under no obligation to refund the money to Mr L under the Contingent Reimbursement Model (CRM) Code either. This is because the Code does not apply to transfers which the payer has effectively made to themselves i.e. into an account in their own name.

I note that HSBC has paid Mr L £75 to reflect issues in HSBC's investigation I think that this is sufficient and therefore I am not going to ask it to do more in relation to this.

I appreciate this will likely come as a disappointment to Mr L, and I'm sorry to hear he have been the victim of a cruel scam. However, I'm not persuaded that HSBC can fairly or reasonably be held liable for his loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 10 May 2024.

Charlie Newton  
**Ombudsman**