

## The complaint

Mr H, via a representative, complains that HSBC UK Bank Plc trading as first direct (“HSBC”) have failed to refund the money he lost as part of an investment scam.

## 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 H said a friend introduced him to a scammer that I will call B who purported to be an investment company.

B then persuaded Mr H to send funds to a crypto exchange via faster payments, these funds were then used to purchase crypto and were then sent on to B. Mr H made the following payments via debit card and transfer.

Transaction Number	Date	Amount	Type of Payment
1	24 March 2023	£31.05	Debit Card Payment
2	2 May 2023	£103.49	Debit Card Payment
3	2 May 2023	£31.05	Debit Card Payment
4	26 May 2023	£10,349	Debit Card Payment
5	30 May 2023	£6,000	Transfer
6	10 June 2023	£25,000	Transfer

When Mr H attempted to withdraw the profit that he could see on B’s ‘platform’ he was unable to do so. At this point Mr H realised that he had been scammed.

Mr H asked HSBC to refund these payments, as he believes HSBC should have done more to prevent him from being scammed in the first place. HSBC did not agree with this.

One of investigators looked into this matter and he thought that whilst HSBC did give an appropriate scam warning he didn’t think any further intervention would not have stopped the scam.

Mr H 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 H 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 H 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.

HSBC intervened on two occasions and during his conversation with it he said that he had found the investment via a friend, he had done his own research and had read reviews, he had made withdrawals already and he was convinced that the company was legitimate. I think that HSBC could have asked further questions but there were no warnings about B at the time of the transactions and he had not used remote access software. So, all I think HSBC could have done was to provide a general crypto warning and given how confident Mr H was that B was legitimate, I don't think that this would have stopped him. I also note that he was given a very general warning in the second call and this did not stop him either.

Finally, even had HSBC stopped Mr H from sending funds directly to the crypto exchange, and to be clear, I don't think it needed to. I still think he would have found other ways to send the funds to B. This is demonstrated by him sending funds, after the above transactions to B, via an account with a different firm when he had difficulty sending more funds to the crypto exchange from his HSBC account.

So overall, I think that HSBC intervened appropriately given the answers provided by Mr H and even had it intervened further I don't think the scam would have been stopped.

I've also thought about whether HSBC could have done more to recover the funds after Mr H reported the fraud.

HSBC are also under no obligation to refund the money to Mr H under the Contingent Reimbursement Model (CRM) Code. This is because the Code does not apply to transfers which the payer has effectively made to themselves, or to debit card payments.

I also don't think that a chargeback wouldn't have been successful for the debit card payments as he was paying to send funds to a crypto exchange for crypto which he duly received. So Mr H got what he paid for.

I appreciate this will likely come as a disappointment to Mr H, and I'm sorry to hear he has 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 H to accept or reject my decision before 22 July 2024.

Charlie Newton  
**Ombudsman**