

The complaint

Mr G complains that HSBC UK Bank Plc didn't do enough to protect him when he was the victim of a job scam.

Mr G is being supported by a representative, but for ease, I'll refer to Mr G throughout this decision.

What happened

The background to this complaint is well known to both parties, and so I'll only refer to some key events here.

Mr G was contacted by a recruitment company, who I'll refer to as ('R') via WhatsApp. He was told of a job opportunity working for a company, who I'll refer to here as ('S'). Mr G said he checked the legitimacy of 'R' and 'S' online and had no cause for concern. And he said he'd been actively looking for work, so the contact from 'R' was not unexpected.

Mr G performed tasks for 'S' relating to data optimisation. He said he was given access to an online platform where he could see the tasks he'd completed and was able to speak regularly with other employees of 'S' who supported him through the process. Mr G received payment by way of commission which he said he paid into an existing account he already held with a legitimate crypto exchange – which I'll refer to here as ('B').

Initially, Mr G said he received payment for the work he completed and was able to withdraw money. But then Mr G had to make payments to access the tasks he needed to complete. Payment was made by purchasing crypto via 'B' which Mr G then transferred to what he believed was his job wallet.

Mr G said he believed he was placing the crypto into a job wallet to act as a deposit for tasks. But unbeknown to him, the money was being transferred to the scammer.

On 30 March 2023 Mr G made three payments to 'B', via its payment processing company, as follows:

Payment amount
£1,370
£2,801
£4,500

HSBC flagged the £4,500 payment as suspicious and spoke to Mr G. Satisfied with the responses he gave to its questions; HSBC released the payment.

Mr G became suspicious that he was being scammed when he was asked to pay larger amounts to access the tasks. He was then unable to withdraw any money and contacted HSBC on 3 April 2023. HSBC said that because the funds had gone to Mr G's account with 'B' – he should raise the matter with 'B'.

Mr G complained to HSBC. It said it had spoken to Mr G about the £4,500 payment and asked him appropriate questions and provided suitable warnings.

Unhappy with HSBC's response, Mr G referred his complaint to the Financial Ombudsman. He didn't think HSBC had asked probing enough questions when it spoke to him about the £4,500 payment to have alerted him to the risks of job scams. He also thought HSBC should've intervened in the first payment given the risks associated with payments to crypto exchanges. So, he didn't think HSBC had done enough to protect him.

One of our Investigators considered the complaint but didn't uphold it. On listening to the telephone call between Mr G and HSBC in relation to the £4,500 payment, she thought HSBC had done enough to protect Mr G and that he hadn't been open and honest with the answers he provided. Our Investigator also noted that Mr G had received tailored written warnings about payments relating to crypto.

Mr G didn't agree and asked for an Ombudsman to issue a final decision. He maintained that HSBC hadn't asked him probing enough questions specific to job scams – and an assumption had been made by HSBC that this was a crypto investment. Mr G said HSBC never asked who he was investing with or what he was investing in – which had it done so, he said he would've explained the full circumstances of the payment insofar as it related to a job – not an investment.

Mr G said there were several red flags about the payment that HSBC would've uncovered if it had asked the right questions. This included that he wasn't investing the funds but instead paying them into a job account to withdraw his earnings; that he was transferring these funds to accounts supplied by a customer service representative over social media; and that he had recently been added to a group chat with other colleagues sharing screenshots of their profits.

Mr G said these were all clear hallmarks of a job scam that HSBC should've uncovered.

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've decided not to uphold this complaint. I know this is not the answer Mr G was hoping for and so this will come as a disappointment. I'm really sorry to hear he's been the victim of a scam and has lost money as a result. I can understand why he'd want to do all he can to recover the money he's lost. But I need to decide whether HSBC can fairly and reasonably be held responsible for Mr G's loss. Overall, I've decided that it can't be. I'll explain why.

I accept the transactions Mr G made were authorised payments, even though he was the victim of a job scam. So, although he didn't intend the money to go to the scammers, under the Payment Services Regulations 2017 and the terms and conditions of her account, Mr G is presumed liable for the loss in the first instance.

However, taking into account what I consider to have been good industry practice at the time, I consider HSBC should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.

- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which financial institutions are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

So, taking all of this into account, I need to decide if HSBC acted fairly and reasonably in its dealings with Mr G when he made the payments, specifically whether it should've done more than it did before processing them.

Mr G thinks HSBC should've intervened in the first payment made on 30 March 2023 given its size and because it was related to crypto. But I don't think that payment was so unusual to have flagged as suspicious. It isn't uncommon for customers to make a one-off larger payment during normal account activity. And I can see that Mr G made other payments to 'B' (not as part of this scam) for £1,000 on 24 January 2023, £500 on 6 October 2022 and £400 on 22 May 2022. So, the £1,370 payment wasn't at odds with previous payments Mr G had made.

Arguably the second payment, made shortly after the first one, was more suspicious. This payment was larger than the first and meant Mr G had transferred over £4,000 to 'B' in a very short period.

HSBC has provided evidence to show Mr G was sent a tailored written warning about crypto when he made the second payment. I appreciate the written warning made no specific reference to job scams – and only sought to highlight the key features of a crypto investment scam. But given the information available to HSBC at that time; that Mr G had made two payments to a crypto exchange in a short period of time that had increased in value – I think the written warning was proportionate and relevant to the risk HSBC had identified.

The crux of this complaint centres on the interaction between Mr G and HSBC in relation to the third payment of £4,500. Where there is interaction between a bank and its customer about a payment, we'd expect the bank to ask questions and provide appropriate warnings against potential scams so its customer could make an informed decision as to whether to continue with the payment.

I've listened to the telephone call between Mr G and HSBC from 30 March 2023.

HSBC asked Mr G if he made the payment himself and he said yes. HSBC noticed that Mr G had made multiple payments to 'B', and it asked Mr G to confirm that previous payments had been received by 'B'. Mr G said they had.

HSBC asked Mr G if he would be making any more payments to 'B'. He said yes – it was for *'the payment of cryptocurrency'*. Mr G confirmed he had received and understood the written warnings.

HSBC then asked Mr G questions about the purpose of the payment. It specifically asked Mr G *'are you investing in cryptocurrency?'* He said yes.

HSBC then provided more general warnings to Mr G about being contacted by fraudsters

pretending to be from HSBC or the police, and coaching customers on what to say if questioned by HSBC. Mr G said this didn't apply to him.

HSBC then asked Mr G how he found out about the investment. It's not entirely clear what Mr G says in response due to the poor quality of the recording – but I'm satisfied there's no mention of it being related to a job. HSBC asked Mr G if he had invested in this crypto currency before. Mr G said not in this currency – but in the past he has invested in other cryptos.

HSBC then asked questions around Mr G's interaction with 'B'. Mr G confirmed he had full control of his crypto wallet and opened it around 10 years ago.

Mr G asked HSBC if investing in crypto is legal. HSBC said yes – but it has to check its customers are not the victim of a scam. HSBC confirmed its understanding that Mr G had been '*doing this for some time*' and had access to his wallet, so it was satisfied the checks were complete.

Mr G then confirmed he was happy for the payment to be released.

I've thought carefully about whether HSBC asked the right questions during its interaction with Mr G to fully understand the nature of the transaction he was trying to make. And on balance I do think it did enough.

Firstly, Mr G seemingly understood and accepted why the payment was blocked. He was engaged in the conversation with HSBC and was confident in his responses. So, I don't think HSBC had any obvious reason to doubt what Mr G was saying.

The key point here is whether HSBC's line of questioning was sufficient to have uncovered that Mr G was the victim of a job scam. HSBC very clearly asked Mr G if he was investing in crypto – to which he said yes. It's understandable, therefore, that HSBC's questions thereafter related *specifically* to crypto investment scams.

I appreciate Mr G might've looked upon the payments he was making to get access to the job tasks as a form of '*investment*', and he and HSBC were possibly talking at cross purposes here. But I can't say HSBC acted unreasonably given Mr G specifically said he was investing in crypto. And because of the prevalence of crypto investment scams at that time, HSBC's focus, not unreasonably, was on the hallmarks of crypto investment scams, not job scams in its follow up questions to Mr G.

I have however thought very carefully if there were any missed opportunities for HSBC to have picked up on the fact this was a job scam. And I don't think there were.

HSBC asked Mr G if he was being coached by anyone – and how he found out about the investment. But at no time did Mr G mention the contact he had from 'R' or 'S' or that he was being guided by other employees of 'S' via group chats. The focus of Mr G's responses was consistently linked to investments – what crypto he'd invested in before and that he'd had his account with 'B' for around 10 years. And at the end of the call Mr G asked HSBC about the legality of investing in crypto, further reinforcing that this was what the £4,500 payment related to. Based on that, I can't say it was unreasonable for HSBC not to have deviated from this line of questioning unless Mr G gave it some reason to do so - which I don't think he did.

As I've mentioned above, it's not clear from the telephone call recording what Mr G's exact response was to HSBC's question about how he found out about the investment. This would've been a prime opportunity for Mr G to have explained the background to what the

payment was for – and it does sound like he makes some reference to '*not investing*'. But there is no mention of a job, and then he talks about why he has chosen to invest in the crypto he has, further demonstrating that the payment was for investment purposes.

Mr G has said HSBC should've been aware of the prevalence of job scams and their link to crypto payments, and with that in mind, asked more probing questions around what exactly the £4,500 payment was for. And he thinks HSBC should've asked more open-ended questions to tease out the background to '*the investment*'. But HSBC did ask Mr G how he found out about the investment, which I maintain did provide Mr G with an opportunity to divulge the fact the payment – which he might've perceived as an investment – was to allow him access to job tasks. And so, whilst I accept that HSBC should be aware of job scams, in the specific circumstances of this case, I don't think Mr G provided HSBC with enough accurate information to have enabled it to question him any further on the reason for the payment, or to have challenged him on the responses he gave.

Taking everything into account, I don't disagree that Mr G has been the victim of a cruel job scam. But I think HSBC did enough to try and protect him. So, I don't think it's fair or reasonable to hold HSBC responsible for Mr G's loss.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision **before 16 January 2024**.

Anna Jackson
Ombudsman